FEDERAL REGISTER

VOLUME 12 NUMBER 214

Washington, Friday, October 31, 1947

TITLE 3—THE PRESIDENT

PROCLAMATION 2753

ARMISTICE DAY 1947

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS now, as ever, men of good will are dedicated to the prevention of armed conflict between nations and to the guidance of mankind into paths of peace; and

WHEREAS it is a wise and wholesome custom to rededicate ourselves to this task on November 11 of each year, the anniversary of the laying down of weapons in the first great war of this century; and

WHEREAS the Congress, in recognition of this opportunity for strengthening our peaceful purposes, passed a concurrent resolution on June 4, 1926 (44 Stat. 1932) calling for the observance of November 11 of each year with appropriate ceremonies; and

WHEREAS it is provided by an act of Congress approved on May 13, 1938 (52 Stat. 351) that the eleventh day of November in each year shall be celebrated and known as Armistice Day and shall be a legal public holiday;

NOW THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby urge the people of the United States to devote themselves anew on Tuesday, November 11, 1947, in schools and churches or other suitable places, to the grateful use of the peace we now enjoy in our beloved country, after a second world holocaust, and to the work of promoting with zeal and fervor a permanent peace among all the peoples of the earth; and I call upon the officials of the Government to have the flag of the United States flown upon all public buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 29th day of October in the year of our Lord nineteen hundred and forty-seven, and of the Independence of the United States of America the one hundred and seventy-second.

[SEAL]

HARRY S. TRUMAN

By the President:

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 47-9780; Filed, Oct. 30, 1947; 10:00 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Production and Marketing Administration (Standards, Inspections, Marketing Practices)

PART 51—FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION AND CERTIFICATION)

BASIS FOR CHARGES

On October 2, 1947, a notice of proposed rule making was published in the FEDERAL REGISTER (12 F. R. 6503) regarding the revision of the provisions in § 51.36 of the rules and regulations governing the inspection and certification of fruits, vegetables, and other products (7 CFR, and Supps., 51.1 et seq.), so as to prescribe such increased fees for the inspection service as nearly as may be to cover the cost for the service rendered.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following revision of the provisions in § 51.36 of the aforesaid rules and regulations is hereby promulgated, pursuant to the authority contained in the Department of Agriculture Appropriation Act, 1948 (Pub. Law 266, 80th, Cong., 1st Sess., approved July 30, 1947), to become effective December 1, 1947:

Delete from § 51.36 *Basis for charges*, the terms "$5.00," "$3.00," and "$9.00," and insert, in lieu thereof, the terms "$6.00," "$4.00," and "$12.00," respectively.

(Pub. Law 266, 80th Cong.)

Issued at Washington, D. C. this 29th day of October 1947.

[SEAL]

N. E. DODD,
Acting Secretary of Agriculture.

[F. R. Doc. 47-9763; Filed, Oct. 30, 1947; 9:17 a. m.]

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter B—Immigration Regulations

PART 110—PRIMARY INSPECTION AND DETENTION

DESIGNATION OF HAINES, ALASKA, AS PORT OF ENTRY

SEPTEMBER 25, 1947.

Section 110.1 *Designated ports of entry except by aircraft*, Chapter I, Title 8, Code of Federal Regulations is amended by inserting "Haines, Alaska" between "Eagle, Alaska" and "Ketchikan, Alaska" in the list of Class A ports of entry in District No. 12.

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup. 1003) relative to notice of proposed rule making and delayed effective date is found contrary to the public interest because it is desirable to designate Haines, Alaska, as a port of entry without delay so as to facilitate international traffic of persons entering the United States from Canada via the new highway connecting Haines, Alaska, and Mile Post 108, Alcan Highway, Yukon Territory, Canada.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675, sec. 1, 54 Stat. 1238; 8 U. S. C. 102, 222, 458, 5 U. S. C. 133t; 8 CFR 90.1, 12 F. R. 4781)

T. B. SHOEMAKER,
Acting Commissioner of Immigration and Naturalization.

Approved: October 27, 1947.

TOM C. CLARK,
Attorney General.

[F. R. Doc. 47-9705; Filed Oct. 30, 1947; 9:27 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 43-11]

PART 43—GENERAL OPERATION RULES

FLIGHT AREA LIMITATIONS

Part 43 of the Civil Air Regulations requires that a student pilot must have acquired 10 solo flight hours and have his student pilot certificate endorsed by a flight instructor in order that he be permitted to operate an aircraft outside of the designated local flying area.

Part 20 of the Civil Air Regulations presently exempts graduates of certificated flying schools from certain of the experience requirements of that part. Such exemptions have been accorded because of the high standards of personnel, equipment, and curriculum required of such schools and the specialized instruction given therein. For the same reasons it is believed appropriate to accord students undergoing instruction in such schools exemption from the requirements of § 43.52 and to permit them to fly outside the designated local flying area when deemed competent to do so by the certificated flying school in which they are enrolled.

The purpose of this amendment is to permit a student pilot in a certificated flying school to operate an aircraft outside a local flying area designated by an instructor, prior to having acquired 10 solo flight hours, when he is deemed competent to do so by the flying school concerned. Such an amendment will expedite student training in certificated flying schools without adversely affecting existing safety standards.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and full consideration has been given to all relevant matter presented.

Pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) 601, and 602 thereof, the Civil Aeronautics Board hereby amends Part 43 of the Civil Air Regulations (14 CFR, Part 43, as amended) effective November 20, 1947:

By amending § 43.52, *Flight area limitations* to read as follows:

§ 43.52 *Flight area limitations.* A student shall not pilot an aircraft outside a local flying area designated by his flight instructor until:

(a) He has had at least 10 solo flight hours, or if enrolled in and receiving flying instruction from an approved air agency, he is deemed competent by such agency, and

(b) His student pilot certificate has been appropriately endorsed by a flight instructor. (52 Stat. 984, 1007, 1008; 49 U. S. C. 425, 551, 552)

Adopted in Washington, D. C., on the 21st day of October 1947.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-9712; Filed, Oct. 30, 1947; 8:48 a. m.]

[Regs., Serial 402]

PART 208—MAIL TRANSPORTATION AND SERVICE

FILING OF SCHEDULES AND CHANGES THEREIN BY AIR CARRIERS; EFFECT OF FILING

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of October 1947.

This amendment is rendered necessary by the amendment of Part 238 of the Economic Regulations (14 CFR, Part 238), adopted this date.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

The Civil Aeronautics Board hereby amends § 208.2 (g) of the Economic Regulations (14 CFR 208.2 (g)) to read as follows, effective December 1, 1947:

§ 208.2 *Filing of schedules and changes therein by air carriers under section 405 (e) of the act.* * * *

(g) *Effect of filing.* The filing of a schedule, or a new or revised schedule page, with the Civil Aeronautics Board, shall not relieve an air carrier of requirements made by any other governmental instrumentality, as to filing or reporting.

(Secs. 205 (a), 405 (e), 52 Stat. 984, 995; 49 U. S. C. 425, 435)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-9714; Filed Oct. 30, 1947; 8:48 a. m.]

[Regs., Serial 401]

PART 238—CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

MISCELLANEOUS AMENDMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of October 1947.

The purpose of this amendment is to eliminate certain requirements in connection with the procedure for procuring nonstop authorization and effect certain changes in airport authorization procedures. Certain other changes in the text have been made for the purpose of clarification.

Interested persons have been afforded an opportunity to participate in the making of this amendment, in the case of paragraphs (a), (b) (c) (e) (f) and (g) of § 238.3, and full consideration has been given to all relevant matter presented. Notice and public procedure are unnecessary in the case of paragraph (d) of said section, because that paragraph is a mere restatement of existing requirements and imposes no new requirements.

The Civil Aeronautics Board hereby amends Part 238 of the Economic Regulations (14 CFR 238, as amended) as follows, effective December 1, 1947.

1. Repeal § 238.5.

2. Amend § 238.3 to read as follows:

§ 238.3 *Terms, conditions, and limitations of certificates authorizing interstate and overseas air transportation*—(a) *Applicability.* Unless a certificate or the order authorizing the issuance of such certificate shall otherwise provide, there shall be attached to the exercise of the privileges granted by each certificate authorizing an air carrier to engage in interstate or overseas air transportation pursuant to section 401 of the act, such terms, conditions, and limitations as are set forth in this section, and as may from time to time be prescribed by the Board.

(b) *Nonstop authorization.* Subject to the provisions of section 405 (e) of the act, the holder of a certificate may inaugurate scheduled nonstop service between any two points not consecutively named in its certificate (if such certificate authorizes service between such points and does not prohibit nonstop service between them) upon the effective date of a schedule, or a new or revised schedule page, showing such nonstop service, filed with the Board in accordance with § 208.2 of the Economic Regulations.

(c) *Airport authorization*—(1) *Airport notice.* If the holder of a certificate desires to serve regularly a point named in such certificate through the use of any airport not then regularly used by such holder, such holder shall file with the Board written notice of its intention so to do. Such notice shall be filed at least 30 days prior to inaugurating the use of such airport. Such notice shall be conspicuously entitled "Airport Notice," shall clearly describe such airport and its location, and shall state the reasons the holder deems the use of such airport to be desirable. The use of such airport may be inaugurated 30 days after the filing of such notice, unless the Board notifies the holder within said 30-day period that it appears to the Board that such use may adversely affect the public interest, in which event such use shall not thereafter be inaugurated (except as may be expressly permitted by such notification) unless and until the Board finds, upon application filed by the holder, that the public interest would not be adversely affected by such use. The Board may permit the use of an airport at any time after the filing of the "Airport Notice" whenever the circumstances warrant such action. In no event shall the holder use the provisions of this paragraph as authority to receive passengers at one airport and discharge such passengers at any other airport serving the same point.

(2) *Service of notice.* A copy of each "Airport Notice" shall be served upon such persons as the Board may designate in a particular case, and shall be served upon the following persons in all cases:

(i) The Postmaster General, marked for the attention of the Second Assistant Postmaster General;

(ii) Each scheduled air carrier which regularly renders service to or from the point intended to be served through the proposed airport;

(iii) The chief executives of the city (or other political subdivision) and of the State, in which are located the currently used airport, the proposed airport, and the point to be served, respectively. (If there be a State commission or agency having jurisdiction of transportation by air, notice shall be served on such commission or agency rather than the chief executive of the State.)

(d) *Service pattern changes*—(1) *Applicability.* This paragraph shall be applicable only to certificates which contain a condition requiring that each trip operated by the holder of the certificate between points named in the route or a segment thereof shall (subject to exceptions set forth in such certificate) serve each terminal and intermediate point.

(2) *Application for change in service pattern.* If at any time the holder of such a certificate desires to establish a service pattern omitting one or more of the points served or required to be served pursuant to such condition of the certificate, the holder shall make written application to the Board for approval thereof. Such application shall be conspicuously entitled "Application for Change in Service Pattern," and shall set forth the facts relied upon to establish that the proposed service pattern is in the public interest and consistent with the holder's performance of a local air transportation service. The Board will grant such Application to such extent, for such periods of time, and subject to such conditions as the Board deems proper and adequate, if it finds that such condition would prevent a proposed service pattern which is in the public interest and consistent with the holder's performance of a local air transportation service.

(3) *Service of application.* A copy of each "Application for Change in Service Pattern" shall be served upon such persons as the Board may designate in a particular case, and shall be served upon the following persons in all cases:

(i) The Postmaster General, marked for the attention of the Second Assistant Postmaster General;

(ii) Each scheduled air carrier which regularly renders service to or from any point named on the route segment the service pattern of which the holder proposes to change.

(iii) The chief executive of each point on such route segment and of each State in which are situated the points on such route segment. (If there be a State commission or agency having jurisdiction of transportation by air, notice shall be served on such commission or agency rather than the chief executive of the State.)

(e) *Filing and service of notices and applications.* An original and nine copies of each "Airport Notice" or "Application for Change in Service Pattern" shall be filed with the Board, each setting forth the names and addresses of the persons required to be served and stating that service has previously been made on all such persons by personal service or by registered mail. In the case of registered mail, the date of mailing shall be considered the date of service. Each copy of a notice or application served pursuant to this section shall be accompanied by a letter of transmittal stating that such service is made pursuant to § 238.3 of the Economic regulations of the Civil Aeronautics Board.

(f) *Provisions as to scheduled stops.* (1) A scheduled stop at a point within the continental United States shall not be scheduled to exceed 45 minutes on any flight if the origination or termination of such flight at such point is prohibited by any restriction in the certificate.

(2) A certificate containing a condition or restriction which has the effect of permitting the origination of a flight only at a certain point or points shall not be deemed to permit an increase in passenger- or property-carrying capacity (by change of gauge, substitution of equipment, addition of extra sections, or otherwise) on any such flight at any point other than a point at which the origination of such flight is authorized. A certificate containing a condition or restriction which has the effect of permitting the termination of a flight only at a certain point or points shall not be deemed to permit a decrease in passenger- or property-carrying capacity on any such flight at any point other than a point at which the termination of such flight is authorized. With respect to a particular flight, a point shall not be deemed to be beyond another specified point within the meaning of such condition or restriction unless the holder serves such other specified point on such flight or omits service thereto pursuant to regulation or other specific authorization (such as authority to render nonstop service, or to suspend service to such point) of the Board.

(g) *Failure to comply.* It shall be a condition upon the holding of the certificate that any intentional contravention in fact by the holder of the provisions of Title IV of the act or of the orders, rules, or regulations issued thereunder, or of the terms, conditions, and limitations attached to the exercise of the privileges granted by the certificate, even though occurring without the territorial limits of the United States shall (except to the extent that such contravention in fact shall be necessitated by an obligation, duty, or liability imposed by a foreign country) be a failure to comply with the terms, conditions, and limitations of the

certificate within the meaning of section 401 (h) of the act. (Secs. 205 (a) 401 (f), 52 Stat. 984, 988; 49 U. S. C. 425, 481)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-9713; Filed, Oct. 30, 1947; 8:48 a. m.]

[Reg., Serial No. 400]

PART 292—EXEMPTIONS AND CLASSIFICATIONS

ALASKAN AIR CARRIERS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 21st day of October 1947.

The Civil Aeronautics Board, having conducted surveys and special studies in the Territory of Alaska,[1] having circulated for comment a draft of the proposed regulation relating to Alaskan Air Carriers, as defined in § 292.2 below, having considered written comment thereon, finds as follows:

1. Since regulations were adopted by the Board in October 1942, exempting Alaskan Air Carriers from certain provisions of the Economic Regulations and Title IV of the act, various factors have changed the circumstances under which such exemptions were granted. Air transportation in Alaska has expanded both in the number of carriers and in traffic. The Federal airport program and other governmental construction have fostered and will continue to foster the growth and development of air transportation within the Territory of Alaska. The Board's Alaska office has now been established and the Alaskan Air Carriers are becoming increasingly familiar with the Economic Regulations of the Board. Increased competition has caused some of the air carriers in Alaska to adopt uneconomic and unfair competitive practices resulting in numerous complaints to the Board. Action thereon has been handicapped by the exemptions which have been granted from sections 403, 405 and 407 of Title IV of the act and the absence of any economic regulation promulgated thereunder. In order that the public and the Alaskan Air Carriers be protected from these abuses and to provide for the adequate regulation of air transportation within Alaska it is necessary that additional regulatory provisions of the act and the Economic Regulations be now made applicable to Alaskan Air Carriers operating within the Territory of Alaska, as more fully set forth in paragraph (d) of § 292.2 below.

2. The regulations which have been in effect with respect to operations by Alaskan Air Carriers provide a partial exemption from sections 401 (a) and 404 (a) of the act. Alaska has unusual conditions of terrain, climate and population distribution which require air transportation which does not readily conform to the requirements of these sections of the act. The Territory of Alaska is large, mountainous, with numerous lakes and rivers, and sparsely settled. It has extremes of temperature in summer and winter. These natural conditions influence the air transportation requirements directly. Surface transportation is inadequate and frequently the airplane is the only means of transportation. A great many of the activities of the Territory are seasonal and transitory in nature requiring an irregular rather than a scheduled operation with peak movement over short periods and with service being rendered through a variety of landing areas, both natural and prepared, most of which are unable to accommodate large aircraft or to be used under all conditions. These circumstances still exist and the Board finds that it is in the interest of the public that the partial exemption of Alaskan Air Carriers from sections 401 (a) and 404 (a) should be continued pending further study and clarification of operating conditions.[2]

3. In view of the foregoing considerations, the present enforcement of the provisions of Title IV of the Civil Aeronautics Act of 1938, as amended, except to the extent required in § 292.2 below, would be an undue burden on Alaskan Air Carriers, by reason of the limited extent of and the unusual circumstances affecting the operations of such carriers, and would not be in the public interest.

On the basis of the foregoing findings, and pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 416 (b) thereof, and for the purpose of providing for the classification, exemption, and economic regulation of air carriers engaging in air transportation within Alaska, the Civil Aeronautics Board amends § 292.2 of the Economic Regulations (14 CFR 292.2, as amended) in its entirety to read as follows, effective December 1, 1947:

§ 292.2 *Alaskan Air Carriers*— (a) *Classification of air carriers.* There is hereby established, within the meaning of section 416 (a) of the Civil Aeronautics Act of 1938, a classification of air carriers which, except as otherwise authorized in paragraphs (b) (2) and (c) (1) (ii) of this section, engage solely in air transportation within the Territory of Alaska, said classification to be designated as "Alaskan Air Carriers" Such classification shall include both (1) certificated air carriers and (2) air carriers operating under the authority of paragraph (c).

(b) *Temporary exemption of certificated air carriers.* Until the Board shall adopt further rules, regulations, or orders, an Alaskan air carrier which holds a certificate of public convenience and necessity issued by the Board shall be exempt, subject to the conditions and requirements hereinafter set forth, from sections 401 (a) and 404 (a) of the act insofar as the enforcement of said sections would prevent any such air carrier:

(1) From providing, over a regular route designated in a certificate of public convenience and necessity, service, of the same type authorized by the certificate, to such additional points not named in the certificate as are situated within the territory which would ordinarily be served by such route.

(2) From making charter trips and rendering other special services between points on routes which it is authorized by its certificate to serve. Charter trips and other special services may also be rendered to or from any other point within or outside the Territory of Alaska; *Provided, however,* That such trips originate at or are destined to a point on a route (regular or irregular) the carrier is authorized by its certificate to serve; and, *Provided further,* That all such trips are casual, occasional, or infrequent, and are not made in such manner as to result in establishing a regular or scheduled service.

(3) From transporting over postal routes 78182 and 78187 (blanket authorization of the Postmaster General relating to the transportation of first-class mail) and over postal routes designated by the Postmaster General as "gratuitous" routes, such mail as may be tendered by postmasters in Alaska for transportation over such routes.

(c) *Temporary exemption of non-certificated air carriers.* (1) Until the Board shall adopt further rules, regulations or orders, any air carrier engaging in air transportation within the Territory of Alaska which does not hold a certificate of public convenience and necessity, and during the six months ending March 31, 1945, was engaging within the Territory of Alaska in air transportation which had not been authorized by the Board, and has heretofore filed on or prior to September 15, 1945, an application for a permanent or temporary certificate of public convenience and necessity covering such services, shall be exempt, subject to the conditions and requirements hereinafter set forth, from sections 401 (a) and 404 (a) of the act insofar as the enforcement of said sections would otherwise prevent:

(i) Any such air carrier from continuing to engage in air transportation of the same nature, extent, regularity and frequency as was rendered by it within the Territory of Alaska during said period ending March 31, 1945, and for which air transportation such air carrier filed, on or prior to September 15, 1945, an application for a permanent or temporary certificate of public convenience and necessity;

(ii) Any such air carrier from making charter trips and rendering other special services between points on routes which it is authorized to serve by the terms of paragraph (c) (1) (i) of this section. Charter trips and other special services may also be rendered to or from any other point, within or outside the Territory of Alaska; *Provided,* That such trips originate at or are destined to a point on a route such air carrier is authorized to serve by the terms of para-

[1] Information was also obtained from hearings on numerous Alaskan applications now pending on the Board's dockets, the records of the Post Office Department, and investigations of the Board, including Investigation of Classification of Air Services in Alaska, Docket No. 1747.

[2] The Board has recently circulated, for comment, Economic Regulations Draft Release No. 21, dated September 25, 1947, requesting comments from interested persons upon suggested changes in the exemption provisions relating to pilot-owner operators of small aircraft. These comments are due on or before November 7, 1947.

graph (c) (1) (i) of this section; and *Provided, further,* That all such trips are casual, occasional, or infrequent, and are not made in such a manner as to result in establishing regular or scheduled service. The exemptions granted in this paragraph shall be of no further force or effect as to any air carrier from and after the effective date of an order by the Board denying the aforesaid application of such carrier filed prior to September 15, 1945, or from the date of the inauguration of air transportation pursuant to an authorization of the Board granting such application in whole or in part.

(2) Until the Board shall adopt further rules, regulations or orders, any air carrier engaging in air transportation within the Territory of Alaska pursuant to a specific exemption order adopted by the Board pursuant to section 416 (b) of the act shall be exempt, subject to the conditions and requirements hereinafter set forth, from sections 401 (a) and 404 (a) of the act insofar as the enforcement of said sections would otherwise prevent any such air carrier from continuing to engage in air transportation of the same nature, extent, regularity and frequency as is authorized by the Board in the specific exemption order applicable to such carrier. The exemption granted in this subparagraph (2) shall remain in force and effect as to any air carrier for the term provided for in, and in accordance with the terms of, the order granting the specific exemption for such air carrier.

(d) *Regulation.* (1) The Economic Regulations of the Board shall not be applicable to Alaskan Air Carriers except to the extent provided in this paragraph. Subject to the provisions of subparagraphs (2) and (3) of this paragraph, the following regulations are made applicable to Alaskan Air Carriers:

Sec.	
202.1	Reports of financial and operating statistics.
202.2	Uniform system of accounts.
202.3	Preservation of records.
202.5	Audits of public accountants.
208.1	Review of orders of Postmaster General.
208.2	Filing of schedules.
216.1	Petitions for mail compensation.
224.1	Filing and posting of tariffs.
228.1	Free travel of postal employees.
228.3	Access to aircraft.
228.4	Free and reduced rate transportation.
238.1	Application for certificate of public convenience and necessity.
238.6	Except paragraph (f) temporary suspensions of service.
248.1	Interlocking relationships.
251.1	Filing of agreements.
251.2	Filing of agreements with foreign countries.
280.1	Stock ownership of officers and directors.
280.2	Stock ownership of affiliates.
287.1	Definitions of terms.
292.3	Omission of stop at junction point due to weather.
Part 285	Rules of practice.

(2) The Director of the Alaska Office may take preliminary action for the Board to relieve any Alaskan Air Carrier or group of Alaskan Air Carriers from complying with a specific provision or provisions of §§ 202.1, 202.2, 208.2 and 224.1 of the Economic Regulations of the Board when the application of any provision or provisions of these sections is found by him to be an undue burden on such Alaskan Air Carrier or Air Carriers by reason of the limited extent of, or unusual circumstances affecting, the operations of such Alaskan Air Carrier or Air Carriers. Upon finding that such relief is no longer necessary, the Director of the Alaska Office may take preliminary action for the Board to cancel the relief previously granted in accordance with the provisions of this paragraph. The action of the Director shall be subject to ratification by the Board and any person affected by his action may file exceptions thereto with the Board within 15 days after the date the Director makes his action effective. The action of the Director under this paragraph may be taken either on written application or may be initiated by him in the first instance. Whenever reference is made in § 224.1 to the Economic Bureau or to the Director of the Economic Bureau such reference shall be deemed to mean the Director of the Alaska Office.

(3) An Alaskan Air Carrier which prior to the effective date of this section has suspended service to a point on a regular route named in its certificate and which shall file, within 45 days after the effective date of this section, an "Application for Order Authorizing Temporary Suspension of Service" pursuant to § 238.6 is authorized to continue to suspend service to that point until its application shall have been granted or denied by the Board.

(e) *Procedural requirements* — (1) *Place and time of filing.* Notwithstanding the requirements of any other regulation, order, or rule of the Board, all documents authorized or required by the Civil Aeronautics Act, or any regulation, order, or rule of the Board issued thereunder, to be filed with the Board by any Alaskan Air Carrier or in connection with air transportation performed or sought to be performed by such air carrier shall be filed in accordance with the methods and within the time limitations provided therein with the Director of the Alaska Office of the Board: *Provided,* That applications, motions, and petitions in formal proceedings filed through counsel having addresses outside of Alaska may be filed with the Board at its office in Washington, D. C., in which event one signed copy (being one of the duplicate originals specified in subparagraph (2) of this paragraph) of each such document shall be sent by air mail to the Director of the Alaska Office in Anchorage, Alaska, by the counsel so filing.

(2) *Duplicate originals required.* In addition to the number of copies of each document required to be filed by the regulation, order, or rule under which it is filed, one additional signed copy shall be filed, and if the regulation, order, or rule under which it is filed requires verification of documents filed thereunder, said additional signed copy shall also be verified. Two signed copies will constitute duplicate originals. In the event both copies are filed with the Director of the Alaska Office, that office shall transmit one signed copy to the office of the Board in Washington, D. C., and retain the other signed copy in the files of the Alaska Office.

(3) *Conformity to rules.* All such documents shall in all other respects conform to the requirements of the regulation, order, or rule of the Board under which they are filed; *Provided,* That any such requirement may be waived or substantial compliance authorized by the Director of the Alaska Office if he finds that such requirement will constitute an undue burden on an air carrier or group of air carriers and strict compliance is unnecessary in view of the limited extent of or unusual circumstances affecting the operations of any such air carrier or group of air carriers.

(4) *Posting and preservation of documents.* The Alaska Office copy of all documents subject to this regulation which are required by the Act, or by the regulations, orders, or rules, of the Board, thereunder, to be posted in the Office of the Secretary of the Board, shall be posted in the Office of the Director of the Alaska Office; and the Alaska Office copy of documents which are required by section 1103 of the act to be preserved as public records in the custody of the Secretary of the Board, shall be preserved as public records in the custody of the Director of the Alaska Office under such reasonable arrangements as he may make for public inspection thereof. Such posting and preservation as public records shall be in addition to that required of the Secretary of the Board.

(5) *Requests for additional information.* The Director of the Alaska Office may at any time require any person filing documents with the Alaska Office to file additional copies thereof, and to make service upon persons other than those specified in the pertinent regulation, order, or rule of the Board, if he finds such requirements necessary in the public interest or in the interest of efficiency and expedition in the work of the Board. If he is of the opinion that a formal or informal application, complaint, petition or other document does not sufficiently set forth the material required to be set forth by any applicable regulation, order or rule of the Board, or is otherwise insufficient, he may advise the party filing the same of the deficiency and require that any additional information be supplied. In case he deems an answer to formal complaints and petitions desirable, he may so notify the parties.

(6) *Extension of time.* The Director of the Alaska Office shall have authority, upon good cause shown, to extend the time for filing of any document required by this regulation to be filed with the Alaska Office.

(7) *Recommendations concerning regulations.* The director of the Alaska Office may submit a draft of proposed regulations affecting air transportation within Alaska, or of amendments or modifications of such regulations to the Alaskan Air Carriers for comment. Upon expiration of the date fixed for submission of comments he shall transmit any comments received, together with his recommendations, to the Board for consideration. The Board may revise any such proposed regulation, amendment, or modification, and in respect of any

substantial revision, may direct the Director of the Alaska Office to submit such revision to the Alaskan Air Carriers for further comment.

(f) *Formal proceedings*—(1) *Docket of Alaska Office.* A complete docket of all formal proceedings by or against Alaskan Air Carriers, or by or against persons seeking authority to engage in air transportation solely within the Territory of Alaska, shall be maintained in the offices of the Board at Washington, D. C., and in the Board's Alaska Office.

(2) *Exceptions and oral argument.* Exceptions to the initial or recommended decision of the examiner in any formal proceeding and briefs in support of such exceptions, may be filed with the Board at its office in Washington, D. C., in which event one copy of such exceptions and briefs shall be sent by air mail to the Director of the Alaska Office by the party so filing; or may be filed with the Director of the Alaska Office, in which event they will be transmitted by him to the Board's Office in Washington, D. C. If any of the parties to any such proceeding so desire, the Director of the Alaska Office may on behalf of the Board hear oral argument upon exceptions to the Examiner's report and shall transmit a transcript of such oral argument to the Board. Such oral argument before the Director of the Alaska Office shall be in lieu of oral argument before the Board.

(3) *Hearings and conferences.* Hearings and conferences in proceedings on the Board's Alaskan Docket shall be assigned, and procedural notices (other than notice of oral argument before the Board) and examiner's report will be served by the Director of the Alaska Office.

(g) *Powers of the Director in formal proceedings.* Subject to the modification or reversal by the Board, on his own motion or upon petition or application of any air carrier or other person affected by or having a substantial interest in his action, the Director of the Alaska Office is authorized and designated to act for the Board in the following matters:

(1) *Intervention.* All petitions for intervention in proceedings on the Board's Alaska Docket shall be referred to the Director of the Alaska Office who shall have authority to grant or deny such intervention. Any person whose petition for intervention shall have been denied by the Director of the Alaska Office may file exceptions thereto within 15 days after such denial and the Director of the Alaska Office shall submit such petition and exceptions to the Board for review.

(2) *Dismissal of applications.* The Director of the Alaska Office shall have authority to order dismissal of any application made to the Board pursuant to the Civil Aeronautics Act of 1938, as amended, and pending on the Board's Alaska Docket, when such dismissal is requested by the applicant or where the applicant has failed to prosecute such application.

(3) *Consolidation of applications.* The Director of the Alaska Office shall have authority to consolidate applications under Title IV of the Act on the Board's Alaska Docket for hearing or issuance of initial or recommended decision by an examiner.

(Secs. 205 (a) 416 (b), 52 Stat. 984, 1004; 49 U. S. C. 425, 496)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-9715; Filed, Oct. 30, 1947; 8:49 a. m.]

TITLE 15—COMMERCE

Chapter II—National Bureau of Standards, Department of Commerce

PART 200—TEST FEE SCHEDULES

ACOUSTIC MEASUREMENTS

In accordance with the provisions of sections 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on this schedule of fees are unnecessary for the reason that such procedure would, because of the nature of these rules, serve no useful purpose.

These rules shall be effective upon the date of publication in the FEDERAL REGISTER.

Section 200.621, *Acoustic measurements* (15 CFR 46), is hereby amended by changing the number to § 200.610, and to read as follows:

§ 200.610 *Acoustic measurements.*

Item	Description	Fee
610a	Sound absorption coefficient, 72 sq ft of material, at frequencies of 128, 256, 512, 1024, 2048, and 4096 c/s	[1] $75.00
610b	Sound absorption coefficient, box tests, on 3 sq ft of material at 512 c/s	15.00
610c	Sound transmission loss, wall panel 71" by 83½", at frequencies of 128, 192, 256, 384, 512, 768, 1024, 2048, and 4096 c/s	[1] 100.00
610d	Sound transmission loss, floor panel, same as 610c, plus tapping loss for impact sounds	[1] 125.00
610e	Pressure calibration of condenser microphones, 50 to 10,000 c/s, reciprocity method	75.00
610f	Free field calibration of microphones and sound level meters, 100 to 10,000 c/s, single orientation of microphone	75.00
610g	Free field calibration of microphones and sound level meters, 100 to 10,000 c/s, microphone oriented at angles 0°, ±30°, ±60°, ±90°, ±120°, ±150°, ±180° relative to sound wave	150.00
610h	Calibration of audiometers at frequencies of 128, 256, 512, 1024, 2048, 4096, and 8192 c/s	100.00
610i	Calibration of receivers, 100 to 10,000 c/s	50.00
610j	Calibration of tuning forks	10.00
610z	For special tests not covered by the above schedule, fees will be charged dependent upon the nature of the test	

[1] Plus cost of construction.

(Sec. 312, 47 Stat. 410; 15 U. S. C. 276)

Dated: October 28, 1947.

[SEAL] E. U. CONDON, *Director, National Bureau of Standards.*

Approved:

WILLIAM C. FOSTER, *Acting Secretary of Commerce.*

[F. R. Doc. 47-9702; Filed, Oct. 30, 1947; 8:45 a. m.]

TITLE 24—HOUSING CREDIT

Chapter VI—Public Housing Administration

PART 611—LOW-RENT HOUSING AND SLUM CLEARANCE PROGRAM: POLICY

REMOVAL OF HIGH-INCOME TENANTS FROM LOW-RENT HOUSING PROJECTS (INCLUDING "PL–671" PROJECTS, INSOFAR AS THEY HAVE BEEN CONVERTED TO LOW-RENT HOUSING)

Section 611.5 (11 F. R. 177A–910) is hereby amended to read as follows:

§ 611.5 *Removal of ineligible tenants from low-rent housing projects*—(a) *Statement of policy.* (1) All families who are ineligible for continued occupancy in low-rent housing projects (in accordance with the conditions established in the approved Management Resolution) shall be given immediate notices to vacate, unless, pursuant to a formal request of the local housing authority, the PHA authorizes the spreading of removals over a period of time as provided in paragraph (b) of this section. Enforcement of such notices to vacate is subject to the limitations on evictions described in paragraph (c) of this section.

(2) Tenants with incomes over the maximum allowable will be charged increased rentals appropriate to their incomes: *Provided, however* That in no event will a rent be charged for any dwelling which exceeds the rent prevailing in the locality for comparable accommodations provided by private enterprise.

(3) This policy shall apply to all PL–412, PWA and PL–671 Projects, including PL–671 Projects for which there has not yet been a Presidential Finding that the war need in that locality has terminated, except as to tenants not subject to income limitations on the ground that they are still war workers or servicemen.

(b) *Special procedure for spreading removal of ineligible families in areas where acute housing shortage exists.* (1) All ineligible tenants, irrespective of the reason for their ineligibility, shall be notified that they are ineligible for continued occupancy as soon as the local housing authority has knowledge of such fact. In the event that an upward revision of income limits is contemplated, notices to tenants whose incomes are less than the revised limits which are anticipated, may be withheld pending final determination and PHA approval of such revised limits. The local authority shall inform PHA in such cases, stating the new limits contemplated and the number of tenants from whom notices have been withheld.

(2) Notices to vacate shall be given each month to not less than five percent of the number of families in all of the low-rent developments of the local authority who are listed as ineligible: *Provided, however* That where a revision of income limits for continued occupancy modifies the number of ineligible fami-

lies, the number of families who are given notices to vacate each month thereafter shall be increased or decreased accordingly, that is, in the same proportion that the number of ineligible families after revision of the income limits bears to the number of ineligible families immediately before the income limits were revised.

(c) *Limitations on evictions* (1) Section 209 (b) of Public Law 129, 80th Congress, prevents the eviction of a tenant from a low-rent project upon the ground that his income exceeds the allowable maximum, when the maximum is exceeded solely because of the inclusion of service-connected disability payments in the determination of the tenant's income.

(2) Public Law 301, 80th Congress, authorizes court action to evict ineligible tenants from Federally-owned or Federally-assisted low-rent and slum clearance projects, except that such a court action cannot be maintained prior to March 1, 1948, where in the opinion of the administering authority, it would result in undue hardship for the occupants or unless in the opinion of such authority other housing facilities are available for the occupants. (50 Stat. 888, as amended, sec. 209 (b) Pub. Law 129, 80th Cong., Pub. Law 301, 80th Cong.; 42 U. S. C. 1401 et seq.)

[SEAL] JOHN TAYLOR EGAN,
Acting Commissioner

OCTOBER 24, 1947.

[F. R. Doc. 47-9690; Filed, Oct. 30, 1947; 8:46 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—Office of Materials Distribution, Bureau of Foreign and Domestic Commerce, Department of Commerce

[Allocations Reg. 2, Amdt. 1 to Direction 4]

PART 945—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

TIME LIMIT ON PLACING ORDERS

Allocations Regulations 2, Direction 4 is amended by changing the text of paragraph (e) (1) to read as follows:

(e) *Limitation on the effect of the symbol CXN on purchase orders*—(1) *Time limit on placing orders.* Purchase orders certified under this direction must be placed no later than November 15, 1947, or such later date as may be authorized by OMD because of special circumstances. Orders placed after November 15, 1947, or such later date as may be authorized, shall not be treated as certified orders.

Issued this 30th day of October 1947.

OFFICE OF MATERIALS DISTRIBUTION,
RAYMOND S. HOOVER,
Issuance Officer

[F. R. Doc. 47-9706; Filed, Oct. 30, 1947; 10:07 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A —Office of the Secretary of the Interior

[Order 2369]

PART 4—DELEGATIONS OF AUTHORITY

INVESTIGATION, CONSTRUCTION AND OPERATION OF FEDERAL RECLAMATION PROJECTS

Paragraph (a) (11) of § 4.412, authorizing the Commissioner of Reclamation to approve amendments to farm unit plats (Order 2018; 10 F. R. 259; 43 CFR, 1946 Supp., 4.412) is hereby revised to read as follows:

§ 4.412 *Delegations of authority with respect to investigation, construction and operation of Federal Reclamation Projects.* (a) * * *

(11) In connection with the Columbia Basin Project and under the provisions of the Columbia Basin Project Act (57 Stat. 14) and chapter 275 of the Laws of Washington, 1943, to designate irrigation blocks and to prepare preliminary and final farm unit plats of land so designated, to make revisions of such plats from time to time, and to make all determinations and do all things necessary in connection with such actions; and in connection with projects other than the Columbia Basin Project, to approve all amendments to farm unit plats.

(55 Stat. 842; 16 U. S. C. Sup. 590z-11)

WILLIAM E. WARNE,
Assistant Secretary of the Interior

OCTOBER 17, 1947.

[F. R. Doc. 47-9689; Filed, Oct. 30, 1947; 8:46 a. m.]

Chapter II—Bureau of Reclamation, Department of the Interior

PART 400—ORGANIZATION AND PROCEDURE

DELEGATION OF AUTHORITY

CROSS REFERENCE: For amendment of § 4.412 (a) (11) of this title authorizing the Commissioner of Reclamation to approve amendments to farm unit plats and affecting the delegation of authority contained in § 400.41, see § 4.412 of Chapter I, *supra.*

TITLE 46—SHIPPING

Chapter I—Coast Guard: Inspection and Navigation

[CGFR 47-51]

MISCELLANEOUS AMENDMENTS

A notice regarding the proposed changes in the regulations for distress signals, specifications for distress signals, and manning of seagoing barges was published in the FEDERAL REGISTER dated August 22, 1947 (12 F. R. 5670) and public hearings were held by the Merchant Marine Council on September 23 and 24, 1947, at Washington, D. C. All the written and oral comments submitted were considered.

The purpose for the amendments to the regulations regarding distress signals is to allow an additional alternate to existing requirements and to publish the minimum standard specifications for the various types of distress signals.

The purpose for the regulations regarding manning of seagoing barges is to make uniform the requirements and to allow such barges to be unmanned unless in the judgment of the Officer in Charge, Marine Inspection, U. S. Coast Guard, such manning is necessary for the protection of life and property and for the safe operation of the vessel.

By virtue of the authority vested in me by R. S. 4405, as amended, 46 U. S. C. 375, and section 101 of Reorganization Plan No. 3 of 1946, 11 F. R. 7875, as well as the statutes cited with the regulations below, the following amendments to the regulations are prescribed, which shall become effective on the date of publication of this document in the FEDERAL REGISTER since these regulations allow the marine industry greater latitude and provide for more uniform administration:

Subchapter D—Tank Vessels

PART 31—INSPECTION AND CERTIFICATION

MANNING OF TANK VESSELS

Section 31.4-2 is amended to read as follows:

§ 31.4-2 *Tank barges—B/ALL.* Tank barges need not be manned unless in the judgment of the Officer in Charge, Marine Inspection, such manning is necessary for the protection of life and property and for the safe operation of the vessel: *Provided, however* That towing vessels, while towing barges which are not required to be manned, shall carry in the regular complement of the towing vessel and shall have on board at all times while towing, at least one licensed officer or certificated tankerman. (R. S. 4417a, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

PART 33—LIFESAVING APPLIANCES

EQUIPMENT, LIFEBOATS, LIFE RAFTS, AND BUOYANT APPARATUS

1. Section 33.3-1 is amended by deleting paragraph (bb) and by changing paragraph (e) to read as follows:

§ 33.3-1 *Tank ship lifeboat equipment; ocean and coastwise—T/OC.* * * *

(e) *Distress signals.* Twelve approved hand red flare distress signals in a watertight container, and four approved floating orange smoke distress signals; or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4417a, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

2. Section 33.3-2 is amended by changing the phrase "distress lights" to "distress signals" in paragraphs (f) and (t) and by changing paragraph (e) to read as follows:

§ 33.3-2 *Tank ship lifeboat equipment; Great Lakes—T/L.* * * *

(e) *Distress signals.* Twelve approved hand red flare distress signals in a watertight container, or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) Either an approved flashlight or an approved signal pistol with twelve approved parachute flare cartridges may be substituted for six of the above distress signals. (R. S. 4417a, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

3. Section 33.3-5 *Tank ships; life raft equipment, ocean, coastwise—T/OC* is deleted. (R. S. 4417a, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

4. Section 33.3-6 (b) is amended to read as follows:

§ 33.3-6 *Life raft equipment—T/L.* * * *

(b) *Distress signals.* Twelve approved hand red flare distress signals in a watertight container, or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4417a, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

DISTRESS LIGHTS AND SIGNALING LAMP

5. Section 33.8-1 is amended to read as follows:

§ 33.8-1 *Distress signals—T/ALL and B/OC.* On every vessel of 150 gross tons and over there shall be carried within the pilothouse or upon the navigator's bridge, twelve approved hand red flare distress signals in a watertight container, or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4417a, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

PART 35—OPERATION

GENERAL

Section 35.1-4 (b) is amended to read as follows:

§ 35.1-4 *Watchman.* * * *

(b) *Unmanned barge—B/ALL.* On each normally unmanned barge in tow a strict watch shall be kept at all times from the towing vessel while the vessel is under way, and the same shall apply at all times while the barge is moored at a dock unless the barge is gas free or watchman service is provided or unless reasonable precaution is taken to prevent unauthorized persons from boarding the barge. These watchmen may be members of the regular complement of the towing vessel. (R. S. 4417a, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 391a, 50 U. S. C. 1275)

Subchapter G—Ocean and Coastwise: General Rules and Regulations

PART 59—BOATS, RAFTS, BULKHEADS, AND LIFESAVING APPLIANCES (OCEAN)

1. Section 59.11 is amended by deleting paragraph (cc) and by changing paragraph (e) to read as follows:

§ 59.11 *Lifeboat equipment.* * * *

(e) *Distress signals.* Twelve approved hand red flare distress signals in a watertight container, and four approved floating orange smoke distress signals; or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4426, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 404, 481, 489, 1333, 50 U. S. C. 1275)

2. Section 59.52 is amended by deleting paragraph (n) and by changing paragraph (a) to read as follows:

§ 59.52 *Equipment for life rafts.* * * *

(a) *Distress signals.* Twelve approved hand red flare distress signals in a watertight container, and four approved floating orange smoke distress signals; or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4426, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 367, 404, 481, 489, 1333, 50 U. S. C. 1275)

PART 60—BOATS, RAFTS, BULKHEADS, AND LIFESAVING APPLIANCES (COASTWISE)

1. Section 60.9 is amended by deleting paragraph (cc) and by changing paragraph (e) to read as follows:

§ 60.9 *Lifeboat equipment.* (See § 59.11 of this chapter, as amended, which is identical with this section.)

2. Section 60.45 is amended by deleting paragraph (n) and by changing paragraph (a) to read as follows:

§ 60.45 *Equipment for life rafts.* (See § 59.52 of this chapter, as amended, which is identical with this section.)

PART 62—SPECIAL OPERATING REQUIREMENTS

1. The heading for Part 62 is hereby changed from "Licensed Officers and Certificated Men" to "Special Operating Requirements."

2. Part 62 is amended by adding a new § 62.19a reading as follows and to immediately follow § 62.19:

§ 62.19a *Manning of seagoing barges.* The determination as to whether a seagoing barge shall be manned or not shall be made by the Officer in Charge, Marine Inspection. Permission may be granted for such barges to operate unmanned when in the opinion of the Officer in Charge, Marine Inspection, manning is not necessary for the safe operation of the vessel and where it appears that the requirements of the rules as to lights, etc., will be met. In any case the certificate of inspection should specify whether or not the barge is to be manned, the number and grade of the crew, when carried, and the conditions of operation when no crew is required. These conditions may include limitations as to loading, route, cargo, season of operation, etc. (R. S. 4463, and sec. 10, 35 Stat. 428, as amended; 46 U. S. C. 222, 395)

Subchapter H—Great Lakes: General Rules and Regulations

PART 76—BOATS, RAFTS, BULKHEADS, AND LIFESAVING APPLIANCES

1. Section 76.14 (e) is amended to read as follows:

§ 76.14 *Equipment for lifeboats on vessels of classes (a), (b), (c), (d) and (e).* * * *

(e) *Distress signals.* Twelve approved hand red flare distress signals in a watertight container, or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) Either an approved flashlight or an approved signal pistol with twelve approved parachute flare cartridges may be substituted for six of the above distress signals. (R. S. 4426, 4488, 4491, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 404, 481, 489, 1333, 50 U. S. C. 1275)

2. Section 76.48 (b) is amended to read as follows:

§ 76.48 *Equipment for life rafts on vessels of classes (a) (b), (c) (d) and (e).* * * *

(b) *Distress signals.* Six approved hand red flare distress signals in a watertight container, or six approved hand

combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4426, 4488, 4491, 54 Stat. 346, and sec. 5 (e) 55 Stat. 244, as amended; 46 U. S. C. 404, 481, 489, 1333, 50 U. S. C. 1275)

3. Section 76.60 is amended to read as follows:

§ 76.60 *Distress signals in pilothouse or on navigator's bridge.* On every inspected vessel of 150 gross tons and over, there shall be carried within the pilothouse or upon the navigator's bridge, twelve approved hand red flare distress signals in watertight container, or twelve approved hand combination flare and smoke distress signals in a watertight container. Service use shall be limited to a period of three years from date of manufacture. Distress signals not bearing date of manufacture shall not be carried after January 1, 1949. (For specifications for the above signals, see subparts 160.021, 160.022, and 160.023 in Subchapter Q of this chapter.) (R. S. 4426, 4488, 4491, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 404, 481, 489, 1333, 50 U. S. C. 1275)

Subchapter K—Seamen

PART 141—MANNING OF INSPECTED VESSELS

Part 141 is amended by adding a new § 141.3 reading as follows:

§ 141.3 *Manning of seagoing barges.* (See § 62.19a of this chapter which is identical with this section.)

Subchapter Q—Specifications

PART 160—LIFESAVING EQUIPMENT

SUBPART 160.021—SIGNALS, DISTRESS, FLARE, RED, HAND, FOR MERCHANT VESSELS

Sec.
160.021-1 Applicable specifications and plans.
160.021-2 Type.
160.021-3 Materials, workmanship, construction, and performance requirements.
160.021-4 Sampling, inspections, conditioning, and tests.
160.021-5 Labeling and marking.
160.021-6 Container.
160.021-7 Procedure for approval.

SUBPART 160.022—SIGNALS, DISTRESS, SMOKE, ORANGE, FLOATING FOR MERCHANT VESSELS

160.022-1 Applicable specifications.
160.022-2 Type.
160.022-3 Materials, workmanship, construction, and performance requirements.
160.022-4 Sampling, inspections, conditioning, and tests.
160.022-5 Marking.
160.022-6 Procedure for approval.

SUBPART 160.023—SIGNALS, DISTRESS, COMBINATION FLARE AND SMOKE, HAND, FOR MERCHANT VESSELS

160.023-1 Applicable specifications.
160.023-2 Type.
160.023-3 Materials, workmanship, construction, and performance requirements.
160.023-4 Sampling, inspections, and tests.
160.023-5 Labeling and marking.
160.023-6 Container.
160.023-7 Procedure for approval.

AUTHORITY: §§ 160.021-1 to 160.023-7, inclusive, issued under R. S. 4405, 4417a, 4426, 4488, 4491, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 481, 489, 1333, 50 U. S. C. 1275; section 101, Reorganization Plan No. 3 of 1946, 11 F. R. 7875.

SUBPART 160.021—SIGNALS, DISTRESS, FLARE, RED, HAND, FOR MERCHANT VESSELS

§ 160.021-1 *Applicable specifications and plans*—(a) *Specifications.* There are no other specifications applicable to this subpart.

(b) *Plans.* The following plans, of the issue in effect on the date hand red flare distress signals are manufactured, form a part of this specification:

(1) Drawing No. 160.021-2 (a)—Hand Red Flare Distress Signal, General Arrangement.[1]

(2) Drawing No. 160.021-6 (a)—Container for Hand Red Flare Distress Signals.[1]

§ 160.021-2 *Type.* (a) Hand red flare distress signals specified by this subpart shall be of one type which shall consist essentially of a wooden handle to which is attached a tubular casing having a sealing plug at the handle end, the casing being filled with a flare composition and having a button of ignition material at the top, with a removable cap having a friction striking material on its top which may be exposed for use by pulling a tear strip. The flare is ignited by scraping the friction striker on top of the cap against the igniter button on top of the flare. The general arrangement of the flare is shown by Drawing No. 160.021-2 (a) Alternate arrangements which conform to all the performance requirements of this specification (and other arrangements which conform with all performance requirements except candlepower and burning time, but provide not less than 3,000 candle-minutes with a minimum of one-third minute burning time) will be given special consideration.

§ 160.021-3 *Materials, workmanship, construction and performance requirements*—(a) *Materials.* The materials shall conform strictly to the specifications and drawings submitted by the manufacturer and approved by the Commandant. The color of the tube shall be red. Flare compositions containing sulphur shall not contain more than 2.6 percent of potassium chlorate or an equivalent amount of any other chlorate. Flare compositions containing chlorates in any quantity shall not contain any ammonium salts.

(b) *Workmanship.* Hand red flare distress signals shall be of first class workmanship and shall be free from imperfections of manufacture affecting their appearance or that may affect their serviceability. Moistureproof coatings shall be applied uniformly and shall be free from pinholes or other visible defects which would impair their usefulness.

(c) *Construction.* The casing shall be fitted and secured to the handle with not less than a one-inch overlap and shall be attached to the handle in such manner that failure of the joint will not occur during tests, ignition, or operation. The plug shall be securely affixed in the casing to separate the flare composition from the wooden handle. The flare composition shall be thoroughly mixed and be uniformly compressed throughout to preclude variations of density which may adversely affect uniformity of its burning characteristics. The cap shall have a lap fit of not less than one inch over the end of the casing and flare composition to entirely and securely protect the exposed surface of the igniter button and end of flare composition and casing, and shall have an inner shoulder so constructed that it is mechanically impossible for the inner surface of the cap to come in contact with the igniter button. The cap shall be securely attached to the casing in such manner as to preclude its accidental detachment. The cap shall be provided on its top with a friction striking material which shall, by a pull of the tear strip, be entirely exposed for striking the friction igniter button. The igniter button shall be nonwater soluble or be protected from moisture by a coating of some waterproof substance, and shall be raised or exposed in such manner as to provide positive ignition by the friction striker. The igniter button shall be firmly secured in or on the top of the flare composition; the arrangement shall be such that the ignition will be transmitted to the flare composition. The assembled flare, consisting of tear strip, cap, casing, and upper portion of the handle, shall be sealed and treated to protect the flare from deterioration by moisture. The protective waterproof coating shall be applied so none adheres to the friction striking surface.

(d) *Ignition and burning characteristics.* Test specimens shall not ignite explosively in a manner that might be dangerous to the user or persons close by. Test specimens shall ignite and burn satisfactorily with uniform intensity when subjected to either of the testing schedules prescribed in § 160.021-4 (b) or (c) Test specimens, when burning, shall not chimney in such manner as to materially obscure the flame. The plug separating the flare composition from the handle shall in no case allow flame to pass through it or between it and the casing in such manner as might burn the hand while holding the flare by the handle.

(e) *Water resistance.* Test specimens shall function properly after having been subjected to the conditioning described in § 160.021-4 (d)

(f) *Strength of joint.* Test specimens shall not show noticeable distortion, nor shall the joint between the casing and handle fail, when subjected to either of the tests described in §§ 160.021-4 (h) or (i) immediately after having been

[1] A copy of this drawing has been filed with this document in the Division of the Federal Register, the National Archives, Washington, D. C. Copies are also on file with the various Coast Guard District Commanders for reference purposes.

subjected to the water-resistance conditioning.

(g) *Chemical stability.* Test specimens shall function properly after having been subjected to the elevated temperature conditioning experiment described in § 160.021–4 (e) No ignition shall occur during the conditioning experiment.

(h) *Temperature of ignition of flare composition.* When tested as described by § 160.021–4 (j) the temperature of ignition of the flare composition shall be not less than 250° C.

(i) *Burning time.* Test specimens shall burn in air not less than 2 minutes nor more than 2 minutes and 40 seconds when the time is measured as described in § 160.021–4 (k) Test specimens shall burn under water not less than one minute when tested as described by § 160.021–4 (f)

(j) *Candlepower* The average luminous intensity for any test specimen shall be not less than 500 candlepower as determined by § 160.021–4 (l) The minimum candlepower for a single specimen shall not be less than 250 candlepower for more than 5 seconds.

(k) *Chromaticity.* The color of the burning flare shall be vivid red as determined by § 160.021–4 (m).

§ 160.021–4 *Sampling, inspections, conditioning, and tests*—(a) *Classification of tests.* The methods of sampling, inspections, and tests conducted upon hand red flare distress signals shall be considered as falling within the following general classification:

(1) Qualification (type or brand approval) tests;

(2) Production check tests (at the place of manufacture) and,

(3) Production check tests (at a government laboratory)

(b) *Qualification (type or brand approval) tests.* Pre-approval samples, selected in accordance with § 160.021–7 (c), shall be tested in accordance with the following testing schedule to determine qualification for type or brand approval:

(1) Test 12 specimens for water resistance characteristics, § 160.021–3 (e) following which, test 6 for strength of joint, § 160.021–3 (f) (3 bend and 3 tensile, § 160.021–4 (h) and (i) respectively) then test these 6 specimens for ignition and burning characteristics, § 160.021–3 (d) then test 3 specimens for underwater burning, §§ 160.021–3 (i) and 160.021–4 (l) and finally test 3 specimens for waterproofing of igniter button, § 160.021–4 (g)

(2) Test 6 unconditioned specimens in air for burning time, candlepower, and chromaticity, § 160.021–3 (i) (j) and (k) respectively.

(3) Test 3 specimens for chemical stability of flare composition, § 160.021–3 (g) following which test them for ignition and burning characteristics, § 160.021–3 (d)

(4) Test 3 specimens for temperature of ignition of flare composition, § 160.021–3 (h)

(c) *Sampling, inspections, and tests of flares from production lots.* The production of hand red flare distress signals produced under an official type or brand approval shall be checked for compliance with this specification in the manner set forth below:

(1) *Lot size and sampling procedure.* For purposes of sampling the production of hand red flare distress signals, a lot shall consist of not more than 3,000 flares. A new lot shall be started with any change or modification in raw materials or manufacturing methods. Lots shall be numbered serially by the manufacturer, and the lot number shall be plainly and indelibly marked on the label of each flare in the lot. A marine inspector shall select at random from each lot the number of specimen flare signals indicated in the following table for inspection, conditioning, and testing:

TABLE 160.021–4 (c) (1)—NUMBER OF SPECIMENS

Lot size	Minimum number of specimens of sample
Not more than 1,000	18
1,001 to 3,000	24

(2) *Inspections (at the place of manufacture).* The marine inspector shall be admitted to the place of manufacture and shall familiarize himself with the various operations involved in the manufacturing process and, from observation during manufacture, satisfy himself that hand red flare distress signals are being made in general accordance with this subpart and of materials and parts conforming strictly with the specifications and drawings submitted by the manufacturer and approved by the Commandant. Specimens or samplings of materials entering into construction may be taken at random, either in the raw material state or during manufacture, by the inspector and tests made for compliance with the applicable requirements. The test specimens comprising the sample, selected in accordance with § 160.021–4 (c) (1), shall be examined by the inspector for surface defects.

(3) *Production check tests (at the place of manufacture).* The manufacturer shall provide a suitable place and the necessary apparatus for the use of the inspector in conducting such production check tests as are done at the place of manufacture. Samples from production lots, selected in accordance with § 160.021–4 (c) (1), shall, except when tested at a Government laboratory as prescribed below, be tested at the place of manufacture in accordance with the following testing schedule: 1st day: Place all specimens in water-resistance conditioning, § 160.021 (d) 2d day: Remove all specimens from water-resistance conditioning. Test two specimens for underwater burning, § 160.021–4 (f). Test two specimens for effectiveness of waterproofing substance on igniter button, § 160.021–4 (g). Test two specimens for bending strength of joint, § 160.021–4 (h). Test two specimens for tensile strength of joint, § 160.021–4 (i) Test all unburned specimens for burning time, § 160.021–4 (k) and for ignition and burning characteristics, § 160.021–3 (d). Measurements of candlepower and chromaticity will not be made.

(4) *Production check tests (at a government laboratory).* Tests at a government laboratory shall be made on not less than one sample from each ten production lots of hand red flare distress signals, or not less than once in each year, whichever occurs most frequently. Sampling and inspection shall be made at the place of manufacture as provided in § 160.021–4 (c) (1) and (2). The sample will be forwarded prepaid by the manufacturer to the Commandant. Tests at the government laboratory shall be conducted in accordance with the schedule given in § 160.021–4 (b) except that the number of specimens for the separate tests may be reduced in accordance with the size of the sample.

(d) *Conditioning of test specimens; water resistance.* Immerse specimen horizontally in water at not more than 30° C. with uppermost portion of the signal approximately one inch below the surface of the water for a period of 24 hours.

(e) *Conditioning; elevated temperature, humidity, and storage.* Place specimen in a thermostatically controlled even-temperature oven held at 90° C. with not less than 90% relative humidity for 72 hours. Remove specimens and store at room temperature (20° to 25° C.) with approximately 65% relative humidity for ten days.

(f) *Test method; underwater burning.* Ignite the flare and let it burn 15 seconds in air. Submerge burning flare in water in a vertical position with head down. Obtain underwater burning time by stop watch measurements from time of submersion until positive flame emission ceases.

(g) *Test method; waterproofing substance on igniter button.* Remove the cap from the test specimen. Place head of specimen without cap about one inch under the surface of water about 20° C. for approximately 5 minutes. Remove specimen from water and wipe dry. Attempt to ignite flare according to directions.

(h) *Test method; bending strength.* Place the specimen on supports six inches apart. Attach a weight of 80 pounds to a length of wire. Hang the weight from the supported flare by looping the wire around the flare approximately equidistant from the two points of support. Let the weight hang approximately 5 minutes.

(i) *Test method; tensile strength.* Place the specimen in a chuck firmly holding it about one-half inch below the cap. Attach a weight of 80 pounds to a length of wire. Hang the weight from the supported flare by looping the wire through a hole bored perpendicular to and through the axis of the handle. Let the weight hang approximately 5 minutes.

(j) *Test method; temperature of ignition of flare composition.* A brass block 1" x 1½" x 10" is used. Two rows of eight holes, 3/8" diameter by ¾" deep, are bored with centers about ½" from and along the two long edges of the block. The rows start 3" from both ends of the block and are spaced evenly in the center 4 inches. A hole for the thermometer is bored longitudinally through the exact center of the body of the block. The block is used over a shield and is heated by a burner fitted with a brass "fish-tail." The procedure is as follows: About one gram portions of the flare composition are placed in several of the

holes and tamped lightly with a glass rod. The temperature of the block is then raised at about 10° C. per minute to determine the "approximate ignition temperature." Starting again, the block is heated to a temperature about 15°–20° C. below the predetermined approximate ignition temperature and the mixture then placed in the holes and tamped. The temperature is then raised at a rate of 5° C. per minute to the ignition temperature and the procedure repeated, if necessary until reproducible results are obtained which check within reasonable limits.

(k) *Test method, burning time.* The burning time of a specimen shall be obtained by stop watch measurements from the time positive flame is omitted until it ceases. The burning time for a sample (i. e. all the test specimens from a single lot) shall be the arithmetical average for all specimens in the sample.

(l) *Test method, candlepower* The candlepower of each specimen tested shall be measured by a visual photometer or equivalent photometric device, while the specimen is supported in a horizontal position and the photometer is at right angles to the axis of the specimen. Visual candlepower readings shall be observed and recorded at approximately 20-second intervals during the burning of the specimen. The minimum photometric distance shall be 10 feet. Recording photometers shall have a chart speed of at least one inch per minute. The candlepower of the specimen shall be computed as the arithmetical average of the readings recorded. The candlepower for the sample (i. e. all test specimens from a single lot) shall be the arithmetical average of the candlepower values computed for each of the specimens making up the sample.

(m) *Test method, chromaticity.* In order to determine that light from the specimen may be termed "vivid red" (ISCC–NBS method of designating colors, RP1239) two identical test plates of white cardboard about 12" x 24" are used. Except for a negligible amount of stray daylight, the first test plate is illuminated by light from the specimen placed at a distance of about 5 feet. The second test plate is illuminated only by light from an incandescent lamp operated at a color temperature close to 2848° K at a distance of about one foot. The first test plate is viewed directly, the second through combinations of Lovibond red, yellow, and blue glasses selected so as to appropriate a chromaticity match. By separating the test plates by a wide unilluminated area (subtending at the observer about 45°) it is possible to make determinations of chromaticity in terms of the standard I. C. I. diagram (Mixture Diagram According to the 1931 International Commission on Illumination Standard Observer and Coordinate System) with an uncertainty in x or y not greater than 0.005, in spite of fluctuations in candlepower of the specimen by factors as high as 2 or 3. The light from burning red hand flare distress signals shall show values in terms of the I. C. I. Standard Observer and Coordinate System of not less than 0.61 for the x-coordinate and not more than 0.34 for the y-coordinate for any of the determinations made during the positive flame emitting period.

(n) *Lot acceptance or rejecting.* When the marine inspector has satisfied himself that the hand red flare distress signals in the lot are of a type officially approved in the name of the manufacturer, and that such signals meet the requirements set forth in this subpart, each of the smallest packing cartons or boxes (usually containing one dozen signals) in which the flares are sealed prior to shipment, shall be plainly marked with the words: "Inspected and Passed, (Date) (Port) (Inspector's Initials) U. S. C. G." When the sample of the lot does not meet the requirements of this subpart, or when one or more of the test specimens fails to ignite, the lot shall be rejected. Signals from rejected lots may, when permitted by the inspector, be reworked by the manufacturer to correct the deficiency for which they were rejected and be resubmitted for official inspection. Signals from rejected lots may not, unless subsequently accepted, be sold or offered for sale under representation as being in compliance with this specification or as being approved for use on merchant vessels.

§ 160.021–5 *Labeling and marking*—(a) *Labeling.* Each hand red flare distress signal shall bear a label securely affixed thereto, showing in clear, indelible black lettering on a red background, the following wording and information:

(Company brand or style designation)

Hand Red Flare Distress Signal

500 Candlepower—2 Minutes Burning Time

Use Only When Aircraft or Vessel Is Sighted

Directions. Pull tape over top of cap. Remove cap and ignite flare by rubbing scratch surface on top of cap sharply across igniter button on head of signal.

Caution. Stand with back to wind and point away from body when igniting or flare is burning.

(Month and year manufactured) (Lot No. ------)

Manufactured by (Name and address of manufacturer)

U. S. Coast Guard Approval No. ------ for merchant vessels.

(b) *Other marking.* There shall be die-stamped, in the side of the wooden handle in figures not less than ⅛ inch high, numbers indicating the month and year of manufacture, thus: "6–47" indicating June 1947. In addition to any other marking placed on the smallest packing carton or box containing hand red flare distress signals, such cartons or boxes shall be plainly and permanently marked to show the date of manufacture and lot number.

§ 160.021–6 *Container*—(a) *General.* Containers for stowage of hand red flare distress signals in lifeboats and life rafts on merchant vessels are not required to have specific approval or to be of special design, but they shall meet the following test for watertightness when closed, and shall be capable of being opened and reclosed hand-tight to meet the same watertightness test. The materials shall be copper, brass, bronze, or equally corrosion-resistant to salt water and spray The type container illustrated by Drawing No. 160.021–6 (a) is recommended for most purposes.

(b) *Watertightness test for containers.* Whenever question arises as to the watertightness of a container, the following test may be made to determine whether it is satisfactory in this respect. Open the container, remove the contents, insert colored blotting paper as a lining, reclose container as tightly as possible by hand (no wrenches or special tools permitted) submerge container with top about one foot below the surface of the water for two hours, remove container from water, wipe off excess moisture on outside; then open the container and examine the blotting paper and entire interior for evidence of moisture penetration. If any moisture or water is evidenced, the container is not satisfactory.

(c) *Marking of container* Containers shall be embossed or bear a brass or equivalent corrosion-resistant name plate, or otherwise be suitably and permanently marked, to plainly show in letters not less than ½" high the following wording: "Hand Red Flare Distress Signals." No additional marking which might cause confusion as to the contents shall be permitted.

NOTE: The vessel's name is required to be painted or branded on equipment such as this container by other regulations, and nothing in this subpart shall be construed as prohibiting same.

§ 160.021–7 *Procedure for approval*—(a) *General.* Hand red flare distress signals for merchant vessels are approved only by the Commandant, U. S. Coast Guard, Washington, D. C. Correspondence pertaining to the subject matter of this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located.

(b) *Manufacturer's plans and specifications.* In order to obtain approval, submit detailed plans and specifications including a complete bill of material, assembly drawing, and parts drawings descriptive of the arrangement and construction of the signal, to the Commander of the Coast Guard District in which the factory is located. Each drawing shall have an identifying drawing number, date, and an identification of the signal; and the general arrangement or assembly drawing shall include a list of all drawings applicable, together with drawing numbers and alteration numbers. The alterations shall be noted with the date of alteration or new drawing numbers and dates shall be assigned. At the time of selection of the pre-approval sample, the manufacturer shall furnish to the inspector four copies of all plans and specifications, corrected as may be required, for forwarding to the Commandant.

(c) *Pre-approval sample.* After the first drawings and specifications have been examined and found to appear satisfactory, a marine inspector will be detailed to the factory to observe the production facilities and manufacturing methods and to select at random, from not less than 50 flares already manufactured, a sample of not less than 24 specimens which will be forwarded prepaid

by the manufacturer to the Commandant for the necessary conditioning and tests in accordance with § 160.021–4 (b) to determine compliance with this subpart for qualification for type or brand approval for use on merchant vessels.

SUBPART 160.022—SIGNALS, DISTRESS, SMOKE ORANGE, FLOATING FOR MERCHANT VESSELS

§ 160.022–1 *Applicable specifications*—(a) *Specifications.* There are no other specifications applicable to this subpart.

§ 160.022–2 *Type.* (a) Floating orange smoke distress signals specified by this subpart shall be of one type which shall consist essentially of an outer container, ballast, an air chamber, an inner container, the smoke producing composition, and an igniter mechanism. Alternate arrangements which conform to the performance requirements of this specification will be given special consideration.

§ 160.022–3 *Materials, workmanship, construction, and performance requirements*—(a) *Materials.* The materials shall conform strictly to the specifications and drawings submitted by the manufacturer and approved by the Commandant. Metal for containers shall be not less than 0.020 inch in thickness. Igniter pull wires shall be of corrosion-resistant metal. The combustible material shall be of such nature that it will not deteriorate during long storage, nor when subjected to frigid or tropical climates, or both.

(b) *Workmanship.* Floating orange smoke distress signals shall be of first class workmanship and shall be free from imperfections of manufacture affecting their appearance or that may affect their serviceability.

(c) *Construction.* The outer container shall be cylindrical and not more than 10 inches in length by 7 inches diameter. All sheet metal seams should be hook jointed and soldered. The whole container shall be covered with two coats of gray waterproof paint. The igniter mechanism shall be simple to operate and provide ignition in the most unfavorable weather. The mechanism shall be protected with an easily removable watertight cover of material equally corrosion-resistant to salt water and spray as the container.

(d) *Water resistance.* Test specimens shall function properly after having been subjected to the conditioning described in § 160.022–4 (d)

(e) *Chemical stability.* Test specimens shall function properly after having been subjected to the elevated temperature conditioning experiment described in § 160.022–4 (e) No ignition shall occur during the conditioning experiment.

(f) *Ignition and smoke emitting characteristics.* Test specimens shall not ignite explosively in a manner that might be dangerous to the user or persons close by. Test specimens shall ignite and emit smoke satisfactorily when subjected to either of the testing schedules prescribed in § 160.022–4 (b) or (c). Test specimens shall emit smoke at a uniform rate while floating in smooth water, and should float in such manner that the rate of discharge will be constant while the signal is floating in rough water. Signals should be so constructed that moderately heavy seas likely to be encountered at sea will not cause the signal to become inoperative.

(g) *Temperature of ignition of smoke composition.* When tested as described in § 160.022–4 (g) the temperature of ignition of the smoke composition shall be not less than 250° C.

(h) *Susceptibility to explosion of smoke composition.* The smoke producing composition shall not explode when subjected to the influence of a No. 6 commercial blasting cap as described in § 160.022–4 (h).

(i) *Corrosion-resistance to salt water spray.* Outer containers and covers of specimens shall show good resistance to corrosion from the salt water spray test, § 160.022–4 (i)

(j) *Smoke emitting time.* Test specimens shall emit smoke while floating in water any temperature between 4° C. and 30° C. not less than 4 minutes nor more than 5 minutes when the time is measured as described in § 160.022–4 (j)

(k) *Volume and density of smoke.* Sufficient orange colored smoke shall be emitted during the four minutes to give a cloud of smoke that is readily visible to the naked eye of a person in an aircraft which is not less than five miles away and is flying at an elevation of 5,000 feet in clear weather. Alternate methods of determining the sufficiency of the volume of smoke produced and uniformity of discharge rate will be given special consideration.

(l) *Color of smoke.* The color of the smoke shall be orange as determined by § 160.022–4 (l).

§ 160.022–4 *Sampling, inspections, conditioning, and tests*—(a) *Classification of tests.* The methods of sampling, inspections and tests conducted upon floating orange smoke distress signals shall be considered as falling within the following general classifications:

(1) Qualification (type or brand approval) tests;

(2) Production check tests (at the place of manufacture), and,

(3) Production check tests (at a government laboratory).

(b) *Qualification (type or brand approval) tests.* Pre-approval samples, selected in accordance with § 160.022–4 (c), shall be tested in accordance with the following testing schedule to determine qualification for type or brand approval:

(1) Test two specimens for water resistance characteristics, § 160.022–4 (d), following which test them for ignition and smoke emitting characteristics, § 160.022–3 (f). Test two specimens for chemical stability, § 160.022–4 (e). Test two specimens for underwater smoke emission, § 160.022–4 (f). Test smoke composition of one specimen for temperature of ignition, § 160.022–4 (g). Test one specimen for susceptibility to explosion, §160.022–4 (h). Test one specimen for corrosion resistance, § 160.022–4 (i). Test six specimens for burning time and color, § 160.022–4 (j) and (k).

(c) *Sampling, inspections, and tests of smoke signals from production lots.* The production of floating orange smoke distress signals produced under an official type or brand approval shall be checked for compliance with this specification in the manner set forth below:

(1) *Lot size and sampling procedure.* For purposes of sampling the production of floating orange smoke distress signals, a lot shall consist of not more than 1,000 signals. A new lot shall be started with any change or modification in raw materials or manufacturing methods. Lots shall be numbered serially by the manufacturer, and the lot number shall be plainly and indelibly marked on the outer container of each signal in the lot. A marine inspector shall select 15 signals at random from each lot, for inspection, conditioning, and testing.

(2) *Inspection (at the place of manufacture).* The marine inspector shall familiarize himself with the various operations involved in the manufacturing process and, from observation during manufacture, satisfy himself that floating orange smoke distress signals are being made in general accordance with this subpart and of materials and parts conforming strictly with the specifications and drawings submitted by the manufacturer and approved by the Commandant. Specimens or samplings of materials entering into construction may be taken at random, either in the raw material state or during manufacture, by the inspector and tests made for compliance with the applicable requirements. The test specimens comprising the sample, selected in accordance with § 160.022–4 (c) (1) shall be examined by the inspector for surface defects.

(3) *Production check tests (at the place of manufacture).* The manufacturer shall provide a suitable place and the necessary apparatus for the use of the inspector in conducting such production check tests as are done at the place of manufacture. Samples from production lots, selected in accordance with § 160.022–4 (c) (1) shall, except when tested at a government laboratory as prescribed below, be tested at the place of manufacture in accordance with the following testing schedules: 1st day: Place 6 specimens in water-resistance conditioning, § 160.022 (d). 2nd day: Remove specimens from water-resistance conditioning. Test one specimen for underwater smoke emission, § 160.022–4 (f) Test all unburned specimens for smoke emitting time, § 160.224 (j), and for ignition and burning characteristics, § 160.022–3 (f). Measurements of volumes and density of smoke and color of smoke, will not be made, but visual observations for uniformity of smoke production, sufficiency and color of smoke will be noted. Any unusual discrepancies shall be considered cause for obtaining a new sample from the lot for tests at a government laboratory as provided below.

(4) *Production check tests (at a government laboratory).* Tests at a government laboratory shall be made on not less than one sample from each ten production lots of floating orange smoke distress signals, or not less than once in each year, whichever occurs more frequently, or at such other times as may

be designated by the marine inspector. Sampling and inspections shall be made at the place of manufacture as provided in § 160.022–4 (c) (1) and (2) The sample will be forwarded prepaid by the manufacturer to the Commandant for testing at a government laboratory in accordance with the schedule given in § 160.022–4 (b)

(d) *Conditioning of test specimens; water-resistance.* Immerse specimen horizontally in water approximately 20° C. with uppermost portion of the signal approximately one inch below the surface of the water for a period of 24 hours.

(e) *Conditioning; elevated temperature, humidity, and storage.* Place specimen in a thermostatically controlled even-temperature oven held at 90° C. with not less than 90% relative humidity for 72 hours. Remove specimens and store at room temperature (20° C. to 25° C.) with approximately 65% relative humidity for ten days.

(f) *Test method; underwater smoke emission.* Ignite the signal and let it burn about 5 seconds in air. Submerge the burning signal in water in a vertical position with head down. Obtain underwater smoke emission time by stop watch measurements from time of submersion until positive smoke emission ceases.

(g) *Test method; temperature of ignition of smoke composition.* A brass block 1" x 1½" x 10" is used. Two rows of eight holes, ⅜" diameter by ¾" deep, are bored with centers about ½" from and along the two long edges of the block. The rows start 3" from both ends of the block and are spaced evenly in the center 4 inches. A hole for the thermometer is bored longitudinally through the exact center of the body of the block. The block is used over a shield and is heated by a burner fitted with a brass "fish-tail." The procedure is as follows: About one gram portions of the smoke composition are placed in several of the holes and tamped lightly with a glass rod. The temperature of the block is then raised about 10° C. per minute to determine the approximate ignition temperature. Starting again, the block is heated to a temperature about 15°–20° C. below the predetermined approximate ignition temperature and the mixture then placed in the holes and tamped. The temperature is then raised at a rate of 5° C. per minute to the ignition temperature and the procedure repeated, if necessary, until reproducible results are obtained which check within reasonable limits.

(h) *Test method; susceptibility to explosion.* Remove smoke composition from signal and punch a small hole in the composition. Insert a No. 6 commercial blasting cap. Ignite the cap.

(i) *Test method; corrosion resistance.* Expose the complete specimen with cover secured hand-tight to a finely divided spray of 20% by weight sodium chloride solution at a temperature of 90° to 100° F for 100 hours.

(j) *Test method; smoke emitting time.* Ignite specimen according to manufacturers directions and place signal in tub or barrel of water at any temperature between 4° C. and 30° C. The smoke emitting time of a specimen shall be obtained by stop watch measurements from the time of positive smoke emission until it ceases. The watch shall be stopped during periods of flame emission. The smoke emitting time for a sample (i. e. all the test specimens from a single lot) shall be the arithmetical average for all specimens in the sample.

(k) *Test method; color of smoke.* Ignite specimen in the open air in daytime according to manufacturer's directions, and determine the Munsell notation of the smoke color by direct visual comparison of the unshadowed portions of the smoke with the charts of the Munsell book of color held so as to receive the same daylight illumination as the unshadowed portions of the smoke. The smoke shall be deemed orange if its Munsell notation has a hue between 8R and 5YR, a value greater than 4.5, and a chroma greater than 9.0.

(l) *Lot acceptance or rejection.* When the marine inspector has satisfied himself that the floating orange smoke distress signals in the lot are of a type officially approved in the name of the manufacturer, and that such signals meet the requirements set forth in this subpart, each of the smallest packing cartons or boxes (usually containing four signals) in which the signals are sealed prior to shipment, shall be plainly marked with the words: "Inspected and Passed, (Date) (port) (Inspector's Initials) U. S. C. G." When the sample of the lot does not meet the requirements of this subpart, or when one or more of the test specimens fails to ignite, the lot shall be rejected. Signals from rejected lots may, when permitted by the inspector, be re-worked by the manufacturer to correct the deficiency for which they were rejected and be re-submitted for official inspection. Signals from rejected lots may not, unless subsequently accepted, be sold or offered for sale under representation as being in compliance with this specification or as being approved for use on merchant vessels.

§ 160.022–5 *Marking*—(a) *Directions for use.* Each floating orange smoke distress signal shall be plainly and indelibly marked in black lettering not less than $\frac{3}{16}$" high with the word "Directions." Immediately below shall be similarly marked in black lettering not less than ⅛" high: "1. Use only when aircraft or vessel is sighted." Then in numbered paragraphs, in similar lettering, there shall follow in simple and easily understood wording, instructions to be followed to make the device operative. Pasted-on labels are not acceptable.

(b) *Other marking.* There shall be embossed or die-stamped, in the outer container in figures not less than $\frac{3}{16}$" high, numbers indicating the month and year of manufacture, thus: "6–47" indicating June 1947. The outer container shall also be plainly and indelibly marked with the commercial designation of the signal, the words "Floating Orange Smoke Distress Signal," the name and address of the manufacturer, the Coast Guard approval number, the month, and year of manufacture and the lot number. In addition to any other marking placed on the smallest packing carton or box containing floating orange smoke distress signals, such cartons or boxes shall be plainly and indelibly marked to show the month and year of manufacture and the lot number.

§ 160.022–6 *Procedure for approval*—(a) *General.* Floating orange smoke distress signals for use on merchant vessels are approved only by the Commandant, U. S. Coast Guard, Washington, D. C. Correspondence pertaining to the subject matter of this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located.

(b) *Manufacturer's plans and specifications.* In order to obtain approval, submit detailed plans and specifications including a complete bill of material, assembly drawing, and parts drawings descriptive of the arrangement and construction of the signal, to the Commander of the Coast Guard District in which the factory is located. Each drawing shall have an identifying drawing number, date, and an identification of the signal; and the general arrangement or assembly drawing shall include a list of all drawings applicable, together with drawing numbers and alteration numbers. The alterations shall be noted with the date of alteration or new drawing numbers and dates shall be assigned. At the time of selection of the pre-approval sample, the manufacturer shall furnish to the inspector four copies of all plans and specifications, corrected as may be required, for forwarding to the Commandant.

(c) *Pre-approval sample.* After the first drawings and specifications have been examined and found to appear satisfactory, the manufacturer will be advised as to any corrections or additions which are necessary. A marine inspector then will be detailed to the factory to observe the production facilities and manufacturing methods and to select at random from not less than thirty signals already manufactured, a sample of not less than 15 specimens which will be forwarded prepaid by the manufacturer to the Commandant for the necessary conditioning and tests in accordance with the schedule outlined in § 160.022–4 (b) to determine compliance with this subpart for qualification for type or brand approval for use on merchant vessels.

SUBPART 160.023—SIGNALS, DISTRESS, COMBINATION FLARE AND SMOKE, HAND, FOR MERCHANT VESSELS

§ 160.023–1 *Applicable specification*—(a) The following specification, of the issue in effect on date hand combination flare and smoke distress signals are manufactured, form a part of this subpart:

(1) Navy Department, Bureau of Ordnance: NAVORD OS 3874—Signal (Distress Day and Night) Mark 13, Mod. 0.

§ 160.023–2 *Type.* (a) Hand combination flare and smoke distress signals specified by this subpart shall be of the type described in specification NavOrd OS 3874.

§ 160.023–3 *Materials, workmanship, construction, and performance requirements.* (a) The materials, construction, workmanship, general and detail requirements shall conform to the requirements

of specification NavOrd OS 3874, except as otherwise specifically provided by this subpart.

§ 160.023–4 *Sampling, inspections, and tests.* (a) Sampling and tests of signals manufactured under this subpart for merchant vessels shall be done by a marine inspector in general accordance with the procedures provided by specification NavOrd OS 3874, except that the Coast Guard marine inspector shall be the cognizant inspector and the Coast Guard the cognizant agency.

(b) When the marine inspector has satisfied himself that the hand combination flare and smoke distress signals in the lot are of a type officially approved in the name of the manufacturer, and that such signals meet the requirements set forth in this subpart, each of the smallest packing cartons or boxes in which the signals are sealed prior to shipment, shall be plainly marked with the words: "Inspected and Passed, (Date) (Port) (Inspector's Initials) U. S. C. G." Signals from rejected lots may not be sold or offered for sale under representation as being in compliance with this subpart or as being approved for use on merchant vessels.

§ 160.023–5 *Labeling and marking*—(a) *Labeling.* A label showing firing instructions in accordance with specification NavOrd OS 3874, and to include the commercial designation of the signal, the lot number, Coast Guard approval number, month and year of manufacture, shall be applied in a neat, workmanlike manner after the paint has became thoroughly dry. The label shall be attached to the signal and then protected by a transparent moisture-impervious coating.

(b) *Other marking.* In addition to any other marking placed on the smallest packing carton or box containing signals, such cartons or boxes shall be plainly and indelibly marked to show the month and year of manufacture and the lot number.

§ 160.023–6 *Container*—(a) *General.* Containers for stowage of combination flare and smoke distress signals in lifeboats and life rafts on merchant vessels are not required to have specific approval or to be of special design, but they shall meet the following test for watertightness when closed, and shall be capable of being opened and reclosed handtight to meet the same watertightness test. The materials shall be stainless steel, copper, brass, bronze, or equally corrosion-resistant to salt water and spray.

(b) *Watertightness test for containers.* Whenever question arises as to the watertightness of a container, the following test may be made to determine whether it is satisfactory in this respect. Open the container, remove the contents, insert colored blotting paper as a lining, reclose container as tightly as possible by hand (no wrenches or special tools permitted), submerge container with top about one foot below the surface of the water for two hours, remove container from water, wipe off excess moisture on outside, then open the container and examine the blotting paper and entire interior for evidence of moisture penetration. If any moisture or water is evidenced, the container is not satisfactory.

(c) *Marking of container.* Containers shall be embossed or bear a brass or equivalent corrosion-resistant name plate, or otherwise be suitably and permanently marked, to plainly show in letters not less than ½" high the following wording: "Hand combination flare and smoke distress signals." No additional marking which might cause confusion as to the contents shall be permitted. (Note: The vessel's name is required to be painted or branded on equipment such as this container by other regulations, and nothing in this subpart shall be construed as prohibiting same.)

§ 160.023–7 *Procedure for approval*—(a) *General.* Hand combination flare and smoke distress signals for use on merchant vessels are approved only by the Commandant, U. S. Coast Guard, Washington, D. C. Correspondence pertaining to the subject matter of this specification shall be addressed to the Commander of the Coast Guard District in which the factory is located.

(b) *Manufacturer's plans and specifications.* In order to obtain approval, submit detailed plans and specifications including a complete bill of material, assembly drawing, and parts drawings descriptive of the arrangement and construction of the signal, to the Commander of the Coast Guard District in which the factory is located. Each drawing shall have an identifying drawing number, date, and an identification of the signals; and the general arrangement or assembly drawing shall include a list of all drawings applicable, together with drawing numbers and alteration numbers. The alterations shall be noted with the date of alteration or new drawing numbers and dates shall be assigned. At the time of selection of the pre-approval sample, the manufacturer shall furnish to the inspector four copies of all plans and specifications, corrected as may be required, for forwarding to the Commandant.

(c) *Pre-approval sample.* After the first drawings and specifications have been examined and found to appear satisfactory, the manufacturer will be advised as to any corrections or additions which are necessary. A marine inspector then will be detailed to the factory to observe the production facilities and manufacturing methods and to select at random from not less than fifty signals already manufactured, a sample of not less than 24 specimens which will be forwarded prepaid by the manufacturer to the Commandant for the necessary conditioning and tests in accordance with the requirements for production lots as provided by specification NavOrd OS 3874 and this specification to determine compliance for qualification for type or brand approval for use on merchant vessels.

Dated: October 24, 1947.

[SEAL] J. F. FARLEY,
Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 47-8699; Filed, Oct. 30, 1947; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 8337]

PART 1—ORGANIZATION, PRACTICE AND PROCEDURE

PART 3—RADIO BROADCAST SERVICES

STANDARDS OF GOOD ENGINEERING PRACTICE CONCERNING STANDARD AND FM BROADCAST STATIONS

In the matter of new and revised application forms in the broadcast services and amendments of Parts 1 and 3 of the Commission rules and regulations, and of the Standards of Good Engineering Practice concerning Standard and FM Broadcast Stations.

At a meeting of the Federal Communications Commission held at its offices in Washington, D. C., on the 16th day of October 1947;

The Commission having under consideration the adoption of new and revised application forms for use in the broadcast services (other than in the international, facsimile, and experimental broadcast services) and amendments of Parts 1 and 3 of the Commission's rules and regulations, and of the Standards of Good Engineering Practices Concerning Standard and FM Broadcast Stations, and

It appearing, that notice of proposed rule making with respect to said proposed adoptions, revisions, and amendments was published in the FEDERAL REGISTER on July 3, 1947 (12 F. R. 4351) and

It further appearing, that all comments and suggestions received by the Commission pursuant to said notice of proposed rule making have been carefully considered by the Commission, and

It further appearing, that the adoptions, revisions, and amendments hereinafter ordered are designed to relieve applicants for permits and licenses of various restrictions presently in effect; will facilitate the preparation and submission of broadcast applications; and will result in a more economical and expeditious processing of broadcast applications by the Commission;

It is ordered, That the following forms be adopted in the form and content annexed hereto:[1]

FCC Form 301 (Revision of July, 1947), Application for authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station.

FCC Form 302 (Revision of July, 1947) Application for New Broadcast Station License.

FCC Form 303 (Revision of July, 1947), Application for Renewal of Broadcast Station License.

FCC Form 313 (Revision of July, 1947), Application for Authorization in the Auxiliary Broadcast Services.

[1] These forms will be released to the public as soon as they have been reproduced in sufficient quantity. It is anticipated that they will be available on or about December 1, 1947.

FCC Form 314 (Revision of July 1947), Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License.

FCC Form 315 (Revision of July, 1947), Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License.

FCC Form 321, Application for Construction Permit to Replace Expired Permit.

It is further ordered, That the forms currently in use bearing the above numbers be withdrawn and their use discontinued; that forms bearing the numbers FCC 309, 310, 311, and 312 be used only in connection with applications in the International, facsimile, and Experimental Broadcast Services; and that the following-numbered forms be withdrawn and their use discontinued: 303A, 303B, 304, 305, 306, 316, 319, 320, 322, 327, 330, 333, 335.

It is further ordered, That all forms ordered herein to be withdrawn and discontinued may, at the option of the applicant, be used until February 29, 1948.

It is further ordered, That Part 1 of the Commission's rules and regulations be amended in the following respects:

1. Section 1.311 is amended so that the present language therein is withdrawn and the following provisions are adopted in its place:

§ 1.311 *Application forms for authority to construct a new station or make changes in an existing station, broadcast services.* Applications for new facilities or modification of existing facilities in the broadcast services including AM (standard), FM (frequency modulation) non-commercial educational, commercial television, commercial facsimile, international, experimental (experimental television, experimental facsimile and developmental) and auxiliary (remote pickup and studio transmitter shall be made on the following forms:

(a) FCC Form 301, "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station."

(b) FCC Form 309, "Applications for International, Facsimile, or Experimental Broadcast Station Construction Permit or Modification Thereof." To be submitted with FCC Form 318 for experimental television applications.

(c) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(d) FCC Form 318, "Supplemental application for experimental television broadcast station construction permit, license or modification thereof."

(e) FCC Form 340, "Application for New Noncommercial Educational Broadcast Station Construction Permit."

2. Section 1.314 is amended so that its heading shall read as follows: "Application for extension of construction permit or for construction permit to replace expired construction permit (broadcast), application for extension of construction permit (nonbroadcast) "

3. Section 1.314 is amended so that new paragraph (c) is added, reading as follows:

(c) In the broadcast services, when it is desired to replace an expired construction permit, application shall be made on FCC Form 321, "Application for Construction Permit to Replace Expired Permit."

4. Section 1.317 (b) is amended to read as follows:

§ 1.317 *Application for license following construction permit.* * * *

(b) The following application forms shall be used:

(1) FCC Form 302 "Application for New Broadcast Station License."

(2) FCC Form 310, "Application for International, Facsimile, or Experimental Broadcast Station License."

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 403, "Application for Radio Station License or Modification Thereof (other than broadcasting, amateur, ship, and aircraft)."

5. Section 1.318 (b) (1) is amended so as to delete the word "standard"

6. Section 1.319 (b) (1) is amended so as to withdraw the present language, and the following is adopted in its place:

§ 1.319 *Application for modification of license; broadcast and nonbroadcast.* * * *

(b) * * *

(1) FCC Form 301, "Application for Authority to Constuct a New Broadcast Station or Make Changes in an Existing Broadcast Station"—To be used for all applications for modification of any term of an existing authorization of a broadcast station (except in the International, Facsimile, Experimental, or Auxiliary Broadcast Services).

7. Section 1.319 (b) (2) is withdrawn in its entirety.

8. Section 1.319 (b) (3) is renumbered as 1.319 (b) (2) and is amended so as to withdraw the present language and the following adopted in its place:

(2) FCC Form 312, "Application for Modification of International, Facsimile, or Experimental Broadcast Station License."

9. Section 1.319 (b) (4) is withdrawn in its entirety.

10. Section 1.319 (b) is amended so as to renumber subparagraphs (5) (6), (7) and (8) as (3) (4) (5) and (6) respectively.

11. Section 1.320 (c) (1) is amended so as to delete the word "standard"

12. Section 1.320 is amended so as to withdraw paragraphs (c) (2) and (c) (3) in their entirety.

13. Section 1.320 (c) (4) is renumbered as 1.320 (c) (2) and is amended so as to withdraw the present language and the following adopted in its place:

§ 1.320 *Application for renewal of license; broadcast and non-broadcast.*

(c) * * *

(2) FCC Form 311, "Application for Renewal of International, Facsimile, or Experimental Broadcast Station License"—to be used for all applications for renewal of licenses of international, facsimile, noncommercial educational, and experimental broadcast stations.

14. Section 1.320 (c) (5) is renumbered as § 1.320 (c) (3) and is amended so as to withdraw the present language and the following adopted in its place:

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services"—to be used for all applications for renewal of regular licenses of auxiliary (remote pickup and ST) radio broadcasting stations.

15. Section 1.320 is amended so as to renumber paragraphs (c) (6) to (c) (11) inclusive as (c) (4) to (c) (9) inclusive.

16. Section 1.321 is amended so as to withdraw paragraph (f) (3) in its entirety and to renumber paragraphs (f) (4) and (f) (5) as (f) (3) and (f) (4), respectively.

17. Section 1.328 is amended so as to withdraw the present language and the following adopted in its place:

§ 1.328 *Application to determine operating power by direct measurement of antenna power* Application to determine operating power of broadcast stations by direct measurement of antenna power shall be made on FCC Form 302, "Application for New Broadcast Station License."

18. Section 1.345 is withdrawn in its entirety.

It is further ordered, That Part 3 of the Commission's rules and regulations be amended in the following respects:

1. Section 3.211 is amended so as to withdraw the present language and the following adopted in its place:

§ 3.211 *Applications for FM broadcast stations.* If the application is for a construction permit or for modification of an existing authorization, FCC Form 301 shall be filed; if for a license, FCC Form 302 shall be filed; if for a renewal of license, FCC Form 303 shall be filed.

2. Section 3.215 is amended so as to add a new paragraph (c) as follows:

§ 3.215 *Forfeiture of construction permits; extension of time.* * * *

(c) If a construction permit has been allowed to expire for any reason, application may be made for a new permit on FCC Form 321, "Application for Construction Permit to Replace Expired Permit"

3. Section 3.220 is amended so as to delete the words "(Form FCC No. 311)" in paragraph (a) replace with the following: "(FCC Form 303)"

4. Section 3.611 is amended so as to withdraw the present language and the following adopted in its place:

§ 3.611 *Applications for television stations.* If the application is for a new station or for modification of an existing authorization, FCC Form 301 shall be filed; if for a license, Form 302 shall be filed; if for a renewal of license, FCC Form 303 shall be filed.

5. Section 3.615 is amended so as to add a new paragraph (c) as follows:

§ 3.615 *Forfeiture of construction permits; extension of time.* * * *

(c) If a construction permit has been allowed to expire for any reason, application may be made for a new permit on FCC Form 321, "Application for Construction Permit to Replace Expired Permit"

6. Section 3.620 (a) is amended so as to delete the words "(Form FCC No. 311)" and replace with the following: "(FCC Form 303)"

It is further ordered, That the Commission's Standards of Good Engineering

Practice Concerning Standard Broadcast Stations be amended as follows:

Section 24 is amended so as to withdraw the present language down to but not including the words "Informal requests (letters or telegrams) may be filed for requests: * * *" and substitute the following:

24. STANDARD BROADCAST APPLICATION FORMS

The Communications Act of 1934, as amended, and the rules and regulations of the Commission require that application be made to the Commission for various authorizations. In order to be of aid to applicants, there are set out below the correct forms to be submitted in making application for various authorizations applicable to Standard Broadcast Stations.

FCC Form 301, Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station.

FCC Form 302, Application for New Broadcast Station License.

FCC Form 303, Application for Renewal of Broadcast Station License.

FCC Form 308, Application for Permit to Locate, Maintain, or Use Studio Apparatus for Production of Programs to be Transmitted or Delivered to Foreign Radio Stations.

FCC Form 314, Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License.

FCC Form 315, Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License.

FCC Form 317, Application for Standard Broadcast Station Special Service or Extension Thereof (See § 1.325).

FCC Form 321, Application for Construction Permit to Replace Expired Permit.

FCC Form 701, Application for Additional Time to Construct a Radio Station.

It is further ordered, That the Commission's Standards of Good Engineering Practice Concerning FM Broadcast Stations be amended in the following respects:

Section 19 is amended so as to withdraw the present language and adopt the following:

19. BROADCAST APPLICATION FORMS

FCC Form 301, Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station.

FCC Form 302, Application for New Broadcast Station License.

FCC Form 303, Application for Renewal of Broadcast Station License.

FCC Form 314, Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License.

FCC Form 315, Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License.

FCC Form 321, Application for Construction Permit to Replace Expired Permit.

FCC Form 701, Application for Additional Time to Construct a Radio Station.

It is further ordered, That this order shall be effective immediately.

(Secs. 303 (r) 308, 48 Stat. 1082, 1084, as amended; 47 U. S. C. 303 (r) 308 (b))

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9704; Filed, Oct. 30, 1947; 9:06 a. m.]

[Docket No. 6449]

PART 19—CITIZENS RADIO SERVICE

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 23d day of October 1947;

The Commission having under consideration the matter of promulgation of rules and regulations to prescribe technical requirements and procedure for obtaining type approval of equipment to be operated in the Citizens Radio Service; and

It appearing, that, in accordance with the requirements of section 4 (a) of the Administrative Procedure Act, general notice of proposed rule making, prescribing technical requirements for operation in the Citizens Radio Service and procedure to be followed by manufacturers and others to obtain type approval of equipment to be operated in the Citizens Radio Service, was published in the FEDERAL REGISTER on July 15, 1947; and

It further appearing, that, no comments, suggestions, or objections to the proposed rules were received; and

It further appearing, that, promulgation of rules and regulations to prescribe technical requirements and procedure for obtaining type approval of equipment prior to promulgation of rules and regulations governing licensing procedures in the Citizens Radio Service will enable prospective licensees to obtain suitable equipment at the time licensing procedures can be prescribed; and

It further appearing, that, public interest, convenience and necessity would be served by adoption of the rules as hereafter set forth;

It is ordered, That, effective December 1, 1947, a new Part 19, entitled "Rules and Regulations Governing Citizens Radio Service" be created and that §§ 19.1, 19.101, 19.102, 19.103, 19.104, 19.105, 19.106, 19.107 and 19.108, inclusive, and §§ 19.201, 19.202, 19.203, 19.204, and 19.205, inclusive, be adopted to read as follows:

Sec.
19.1 Basis and purpose.

TECHNICAL SPECIFICATIONS

19.101 Frequencies available.
19.102 Station power.
19.103 Frequency tolerance.
19.104 Communication band.
19.105 Types of emission.
19.106 Percentage modulation.
19.107 Extra band radiation.
19.108 Technical measurements.

TYPE APPROVAL OF EQUIPMENT

19.201 Submission of equipment for type approval.
19.202 Minimum equipment specifications.
19.203 Test procedure.
19.204 Certificate of type approval.
19.205 Acceptance of composite equipment.

AUTHORITY: §§ 19.1 to 19.205, inclusive, issued under sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303.

§ 19.1 *Basis and purpose.* The following rules and regulations are issued pursuant to the provisions of Title III of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmissions and to issue licenses for radio stations. These rules are designed to provide for private short-distance radio communication, radio signalling, and control of objects by radio, with minimum licensing requirements, and to provide procedures whereby manufacturers of radio equipment to be used or operated in the Citizens Radio Service may obtain type approval of such equipment.

TECHNICAL SPECIFICATIONS

§ 19.101 *Frequencies available.* The following frequency bands, within the band 460–470 Mc, will be assigned to the classes of stations indicated, on a non-exclusive basis subject to such interference as may be received from other stations in this service:

460–462 Mc—Class A stations at fixed locations only.
462–468 Mc—Class A and Class B stations.
468–470 Mc—Class A stations.

§ 19.102 *Station power.* The input power to the anode (plate) circuit of the electron tube or tubes which supply energy to the radiating system of a station in the Citizens Radio Service shall not exceed the values shown below, when used or operated in the frequency bands indicated:

460–462 Mc—50 watts.
462–468 Mc—10 watts.
468–470 Mc—50 watts.

§ 19.103 *Frequency tolerance.* The carrier frequency of a station in the Citizens Radio Service shall be maintained as follows:

Class A stations—within plus or minus 0.02% of the frequency on which the transmitter is adjusted for operation.

Class B stations—all operation (including tolerance and communication band) shall be confined to within plus or minus 0.4% of 465 Mc.

§ 19.104 *Communication band.*[1] The communication band for Class A stations shall not exceed 200 kilocycles. All operation (including frequency tolerance and communication band) shall be confined within the frequency band 460–470 Mc.

§ 19.105 *Types of emission.* Stations in the Citizens Radio Service may use only amplitude, phase, or frequency modulation for continuous or interrupted carrier radiotelephony, radiotelegraphy, radioprinter, or facsimile.[2]

§ 19.106 *Percentage modulation.* When the radio frequency carrier of a station in the Citizens Radio Service is amplitude modulated, such modulation shall not excede 100% on negative peaks.

§ 19.107 *Extra band radiation.* Spurious radiation from a citizens radio station transmitter shall be reduced or eliminated in accordance with good engineering practice. This spurious radiation, and any side-bands resulting

[1] Defined in § 2.15 of the Commission's rules as follows:
"Communication band" means the frequency band or width of the frequency band required for the type of emission authorized.

[2] Persons desiring to utilize types of emission not authorized by these rules should apply for license as a Class 2 Experimental Station in the Citizens Radio Service.

from modulation or other causes, shall not be of sufficient intensity to cause interference in receiving equipment of good engineering design which is tuned to a frequency or frequencies outside the band 460–470 Mc.

§ 19.108 *Technical measurements.* Where it appears that a station in the Citizens Radio Service is not being operated in accordance with the technical standards therefore, the Commission may require the licensee to provide for such tests as may be necessary to determine whether the equipment is capable of meeting these standards.

TYPE APPROVAL OF EQUIPMENT

§ 19.201 *Submission of equipment for type approval.* (a) Manufacturers of equipment designed to be used or operated in the Citizens Radio Service and within the frequency bands specified by this part, may submit units of such equipment to the Commission for type approval, upon grant of request therefor made in writing by the manufacturer to the Secretary of the Commission. Such a request will normally not be granted unless at least 100 units of the model to be submitted are scheduled for manufacture. When advised by the Commission, the applicant must send a typical production model or prototype of the particular equipment, complete with tubes and power supply, to the Commission's laboratory at Laurel, Maryland, for test. All instructions which are intended to be supplied to the purchaser of the equipment shall be included. Transportation of the equipment and associated documents to and from the laboratory shall be at no cost to the Government.

(b) Prior to approval or rejection of the equipment, the results of these tests will be made known only to the responsible government officials and to the Commission. An official report of the tests will be made available only to the manufacturer involved; however, the Commission will publish from time to time lists of approved equipment.

(c) The prescribed tests may be conducted by the Federal Communications Commission or by any other cooperating government department. In addition, field tests, as deemed necessary or desirable by the Commission, may be carried out by authorized government personnel to determine the reliability of the equipment under operating conditions comparable to those expected to be encountered in actual service.

§ 19.202 *Minimum equipment specifications.* Equipment submitted for type approval shall be capable of meeting the technical specifications contained in this part either for Class A or for Class B stations in the Citizens Radio Service, and, in addition, shall comply with the following:

(a) Any basic instructions concerning the proper adjustment, use or operation of the equipment that may be necessary, shall be attached to the equipment in suitable manner and in such positions as to be easily read by the operator.

(b) A durable nameplate shall be mounted on each transmitter showing the name of the manufacturer, the type or model designation, and provide suitable space for permanently displaying the serial number and the FCC approval number.

(c) The transmitter shall be designed, constructed, and adjusted by the manufacturer to operate on a frequency or frequencies within the band 460–470 Mc. In designing the equipment every reasonable precaution shall be taken to protect the user from high voltage shock and radiofrequency burns. Connection to the batteries (if used) shall be made in such a manner as to permit replacement by the user without causing improper operation of the transmitter. Generally accepted modern engineering principles shall be utilized in the generation of radiofrequency currents so as to guard against unnecessary interference to other radio services. In cases of serious interference arising from the design, construction, or operation of the equipment, the Commission may require appropriate technical changes in equipment to alleviate interference.

(d) Controls which may effect changes in the carrier frequency of the transmitter shall not be accessible from the exterior of any unit unless such accessibility is specifically approved by the Commission.

§ 19.203 *Test procedure.* Type approval tests to determine whether radio equipment meets the technical specifications contained in this part will be conducted under the following conditions:

(a) Gradual ambient temperature variations from 0° to 125° F

(b) Relative ambient humidity from 20 to 95 per cent. This test will normally consist of subjecting the equipment for at least three consecutive periods of 24 hours each, to a relative ambient humidity of 20, 60 and 95 per cent, respectively, at a temperature of approximately 80° F.

(c) Movement of transmitter or objects in the immediate vicinity thereof.

(d) Power supply voltage variations normally to be encountered under actual operating conditions.

(e) Additional tests as may be prescribed, if considered necessary or desirable.

§ 19.204 *Certificate of type approval.* A certificate or notice of type approval, when issued to the manufacturer of equipment intended to be used or operated in the Citizens Radio Service, constitutes a recognition that on the basis of the test made the particular type of equipment appears to have the capability of functioning in accordance with the technical specifications and regulations contained in this part, *Provided,* All such additional equipment of the same type is properly constructed, maintained and operated, *And provided further,* That no change whatsoever is made in the design or construction of such equipment except upon specific approval by the Commission.

§ 19.205 *Acceptance of composite equipment.* Composite transmitting equipment (or equipment constructed by a manufacturer in lots of less than 100 units) will not, in the usual case, be tested by the Commission for the purpose of granting type approval. An applicant for citizens radio station license who proposes to use or operate such composite or other equipment which has not been type approved, shall supply complete information showing that the equipment fully complies with either Class A or Class B station requirements, on appropriate supplementary forms which shall accompany his original application. In this connection, the Commission may, at its discretion, require that the equipment or a prototype be made available to its laboratory for test in accordance with the procedures outlined which are applicable to equipment manufactured in lots of more than 100 units. In addition, field tests as deemed necessary or desirable may be carried out by authorized government personnel to determine the reliability of the equipment under operating conditions comparable to those encountered in actual service.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9724; Filed, Oct. 30, 1947; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 978]

HANDLING OF MILK IN NASHVILLE, TENN., MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Supps., 900.1 et seq., 11 F. R. 7737; 12 F. R. 1159, 4904) a public hearing was held at Nashville, Tennessee, on June 23 to 27, and June 30 to July 1, 1947, all dates inclusive, pursuant to the notice thereof issued on May 27, 1947 (12 F. R. 3414) upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Nashville, Tennessee, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on September 22, 1947, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of the filing of such recommended decision and opportunity to file written

exceptions thereto was published in the FEDERAL REGISTER September 26, 1947 (12 F. R. 6382). The time within which to file exceptions was thereafter extended (12 F. R. 6577) to October 10, 1947.

The material issues presented on the record were:

(a) Whether the handling of milk in the Nashville, Tennessee, marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce;

(b) Whether marketing conditions justify the issuance of an order regulating the handling of milk in the Nashville, Tennessee, marketing area; and

(c) If issuance of such an order is justified, what its provisions should be.

The evidence on this issue involved the following:

(1) The extent of the marketing area;

(2) The definitions of "producer," "handler," "fluid milk plant," and other terms;

(3) The classification of milk and milk products;

(4) Transfers of milk between handlers and between handlers and nonhandlers;

(5) Allocation of classified skim milk and butterfat;

(6) The determination and level of class prices;

(7) Payments to producers;

(8) The amount of administrative assessment;

(9) The amount of deduction, for marketing services; and

(10) The administrative provisions common to all orders.

Rulings on exceptions. Exceptions to the recommended decision were filed on behalf of the following:

Nashville Milk Producers, Inc.
Anthony Pure Milk Co.
Country Maid Dairy.
W. E. Davis & Son.
Green Vale Milk Co.
Jersey Farms Milk Service, Inc.
J. W. Little's Dairy.
Nashville Pure Milk Co.
Purity Dairies.
Richmond Pure Milk Co.
Swiss Farms Dairy.
Twin Springs Dairy.

In arriving at the findings, conclusions, and actions decided upon in this decision each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings, conclusions, and action decided upon herein with respect to the several issues are at variance with the exceptions pertaining thereto such exceptions are overruled.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

(a) The handling of milk in the Nashville, Tennessee, marketing area is in the current of interstate commerce and directly burdens, obstructs, and affects interstate commerce in milk and its products.

The total milk production of the nation is directed into several channels: (1) Milk for consumption as fluid milk; (2) milk for consumption as fluid cream; and (3) milk for conversion into and consumption as condensed or evaporated milk, powdered milk, cheese, butter, ice cream, and many other products.

Significant regional differences exist in the production of milk for various uses. There is a rather high degree of regional concentration of the factory production of butter, cheese, and evaporated milk. Outside the area of concentration, most of the milk is consumed as fluid milk or fluid cream or is made into butter on farms.

Manufactured dairy products, to a less extent cream, and to a lesser extent fluid milk, may be readily stored and transported. With respect to cream and manufactured products, the ease with which they may be stored and transproted results in a free flow of these products between markets. Many of the consuming markets for these products are located far beyond the boundaries of the state in which the particular products are manufactured.

The motivating factor in the movement of dairy products between markets is the relative price of such products in such markets. The free flow of manufactured products between different markets in response to price changes results in a decidedly close correlation between the price of dairy products in different markets. Not only is there a close intermarket price relationship with regard to dairy products, but also the supply of the raw materials, butterfat, and nonfat milk solids, are interchangeable between products, and as a result the prices received by producers for milk or butterfat, regardless of the use to be made of it, tend to be markedly interrelated.

The producer price interrelationships are due to the fact that farmers can and do shift their milk or butterfat from one outlet to another as price conditions warrant, thereby tending to keep the farm prices of milk and butterfat in any one of the several uses closely related to the farm prices of milk and butterfat in all other uses.

The close interrelationship of prices between milk for fluid distribution and milk for manufactured purposes indicates that the interchangeability of supplies of milk for fluid distribution and of milk for manufacturing purposes is such that prices of milk for fluid distribution in any given area are subject, in a considerable degree, to the same supply and demand forces on a regional and on a national scale, as are prices for milk for manufacturing uses.

There is one large market for dairy products as a whole, and this market is broken down into markets for the several products and into a large number of local submarkets for fluid milk and cream, one for each city, town, or village. This results from the fact that the fluid uses of milk and cream compete with manufacturing uses, and that supplies flowing into these local markets shift from one use to another whenever prices change relatively.

The close relationship between fluid milk and manufactured milk prices may be explained, in part, by the fact that it is impossible to forecast accurately the daily requirements of fluid milk in any milk market, so that some milk intended for fluid distribution finds its way into manufactured dairy products. In addition, producers will, over a period of time, shift their methods of disposal of milk in accordance with changing price relationships.

The prices received by producers for milk entering into manufacturing use are closely related to the United States average farm price for butterfat. Furthermore, the prices received by producers for milk used for fluid consumption are closely associated with the price received by producers for milk entering all other uses. About 42 to 44 percent of the milk produced for commercial disposition is produced to supply fluid milk markets and, because of the uncertainties of demand and supply associated with fluid milk markets, the milk produced for such outlets cannot be isolated economically.

The fluid milk price in any given market will influence the prices in other distant markets and the price of milk used in manufactured dairy products flowing across state lines. In periods of surplus production there is a greater incentive for destructive producer price competition. In an unstabilized market where returns to producers are not based upon proportionate sharing of the fluid milk sales under a classified price plan, there is a tendency, created by the pressure of producers to have a share of the higher priced or fluid market, for the market price to be reduced below the point justified by the existing supply and demand situation in the fluid market. With a declining price in the fluid market in such instances there results an adverse effect on the market of other manufactured products, which effect is spread through a series of price repercussions effecting a decline of prices at other outlets for milk in all its various uses, including other fluid milk. It does not matter that the initial movement in this direction occurs in a market receiving its total supply within a single state. A slump in the price of milk in any sizable market tends to encourage producers to transfer their milk to available facilities for manufactured milk products, which transfer results in an increased amount of dairy products being manufactured locally.

The Nashville fluid milk market is not "isolated" from other fluid milk markets or from the market for manufactured milk. Milk and milk products move into and out of the Nashville market without regard to state boundaries, and the milk produced for the Nashville market competes with milk and its products moving in the current of interstate commerce through manufacturing outlets and other fluid milk markets, as is evidenced by the following:

(1) The supply of producer milk has been insufficient to meet the demand for bottled fluid milk, buttermilk, milk drinks, and cream thereby necessitating the importation of approved supplementary supplies. The record indicates that the supply of producer milk represented less than 75 percent in 1945 and less than 66 percent in 1946 of the volume of bottled fluid milk, buttermilk, milk drinks, and cream sold by Nashville handlers. The remaining portions of such sales were received in the form of cream, condensed skim milk, and nonfat dry

milk solids from sources outside of the State of Tennessee, principally Wisconsin. The record further indicates that substantial quantities of such supplementary supplies have continued to be received during 1947. These receipts are commingled with producer milk in the plants of Nashville handlers and sold in competition with producer milk.

(2) Milk produced in the Nashville milkshed for consumption as fluid milk in the Nashville marketing area is purchased in competition with milk produced for fluid milk markets in other states, including Huntsville, Birmingham, and Gadsden, Alabama, and Atlanta, Georgia. Producers originally supplying milk to handlers in the Nashville marketing area have left the Nashville market and are shipping to plants supplying these out-of-state markets.

(3) Milk produced in the Nashville milkshed for consumption as fluid milk in the marketing area is produced in competition with milk produced for manufacturing plants from which various products are sold across state lines. Manufacturing plants in Nashville have cream-buying stations located in the State of Kentucky. Sour cream collected at these stations is shipped to Nashville for manufacturing purposes. In addition, out-of-state supplies of frozen and plastic cream and butter are from time to time purchased and transported to Nashville. Milk produced in the Nashville milkshed is purchased and transported to plants in the State of Kentucky for manufacturing purposes.

(4) Ice cream manufactured in Nashville is sold in the States of Alabama, Kentucky, and Indiana. Bottled fluid milk is sold by Nashville handlers to railroad companies which place it in dining cars and transport and sell it outside the State of Tennessee.

(b) Marketing conditions justify the issuance of a marketing agreement and order regulating the handling of milk in the Nashville, Tennessee, marketing area.

The price paid to producers supplying the Nashville fluid milk market has been insufficient to attract an adequate supply of pure and wholesome milk. The record indicates producers have shifted from the Nashville market to other markets paying higher prices than the Nashville handlers. Due to the cost involved in making the original inspection of producers entering the Nashville market for the first time, it was necessary, for a period of time, to request such producers to indicate their intention to ship to the Nashville market for a period of at least six months. This procedure was necessary to prevent such producers from shifting to other markets which were offering higher prices.

Further evidence that the price paid to Nashville producers is insufficient to attract an adequate supply is found in the fact that a large number of dairy farmers located in the Nashville milkshed, who are producing milk for sale to nearby manufacturing plants, have not been attracted to the Nashville market. It must be concluded that the differential between the prices paid for milk for manufacturing purposes and prices paid by Nashville handlers has been insufficient to compensate such farmers for the added cost of producing milk for fluid consumption in the Nashville market. Handlers excepted to the findings of the recommended decision in this regard by contending that prices in Nashville have been higher than some of the "Federal order markets." This was true only part of the time. Even if it were true all of the time, comparison with prices in other markets would be irrelevant and immaterial in the absence of any showing that the conditions in these other markets are similar to those in the Nashville market.

There has been a lack of well-defined and uniform price plan guaranteeing producers, as among themselves, equal shares of the market at a reasonable price level and the assurance that the returns will be soundly based upon the fundamental economic conditions in the market rather than primarily on the relatively bargaining strength of producers and handlers. The record indicates that handlers in the market have been unwilling to negotiate pricing and payment grievances with producers. At least two plans of pricing milk to producers, the flat price plan and the base surplus plan, have been followed in the market. Neither of these methods of pricing has contributed to stable marketing by assuring producers uniform and dependable prices consistent with changing economic conditions, or assuring producers direct payment for milk in accordance with the weights, butterfat tests, and uses made thereof. Pricing the milk of producers in accordance with its use, auditing of handler's utilization of milk, and checking weights and tests by an impartial agency under an order will aid in establishing and maintaining the orderly marketing of milk and its products in the Nashville market.

(c) From the evidence it is concluded that the proposed marketing agreement and order, which are hereinafter set forth, and all the terms and conditions thereof, meets the needs of the Nashville market and will tend to effectuate the declared policy of the act. The following findings and conclusions are made with respect to the various provisions of the marketing agreement and order.

(1) *Extent of the marketing area.* The marketing area should be defined to include all the territory within Davidson County, Tennessee, including, but not being limited to, the Cities of Nashville and Belle Meade. The evidence shows that the proposed marketing area includes towns and communities which, together with the Cities of Nashville and Belle Meade, form an integral and compact market in which fluid milk and its byproducts are freely marketed under highly similar conditions. Throughout all the proposed marketing area, Nashville inspected milk or its quality equivalent is required for fluid uses under local health regulations. Nashville handlers distribute milk throughout the proposed area.

(2) *Definitions.* The term "producer" should be defined as any person who produces milk, under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, whose milk conforms to the appropriate health standards for milk for fluid consumption and is received at a fluid milk plant or is diverted to a nonfluid milk plant by a handler. All dairy farms producing milk for fluid consumption in the marketing area must have passed a farm inspection and hold a permit issued by the appropriate health authorities before such milk may be received in a fluid milk plant. Milk produced on such farms may be degraded for high bacteria count or for other reasons and prohibited by the health authorities from being received at a fluid milk plant until such time as proper quality is attained. Any person who produces milk which is so degraded and prohibited from being received at a fluid milk plant should not be considered as a producer during such time that his milk is prohibited from being received at such plant.

The term "handler" should be defined to include any person operating a fluid milk plant who receives producer milk at such plant or who diverts producer milk to any other milk distributing or milk manufacturing plant for his account. The term should be sufficiently broad to include any cooperative association of producers which might divert producer milk for the account of such association. A definition of "handler" is necessary in order to specify what type of processors and distributors are to be subject to regulation. Only operators of plants approved by the appropriate health authorities may process and distribute milk for fluid consumption in the marketing area. The definition is limited to those approved plant operators who receive producer milk. A cooperative association of producers is included, though they might not operate a fluid milk plant, so that in the event any handler receives producer milk in excess of his fluid requirements the association may divert such excess milk to another plant where it may be used in a higher use classification than that in which the first handler might otherwise utilize it, or in the event no use can be found for such milk in the Nashville market the association may divert such milk to other outlets. This will promote the efficient utilization of producer milk.

The term "fluid milk plant" should be defined to include the premises and the portion of the building and facilities used in the receipt and processing or packaging of producer milk, all or a portion of which is disposed of from such plant within the delivery period as Class I milk in the marketing area. It should not include any portion of such building or facilities used to receive or process milk, or any milk product, required by the applicable health authority to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area. A definition of a fluid milk plant is included to further define the type of processors and distributors to be subject to regulation and to clarify the language of the producer and handler definitions and the language of other provisions of the order in which the term fluid milk plant is used. Since any plant

receiving, processing, or packaging milk for fluid consumption in the marketing area must be inspected and approved by the appropriate health authorities, the definition is limited to that portion of a handler's plant which is used to receive, process, or package producer milk for fluid consumption in the marketing area. Some discussion was had on the record with respect to the inclusion of a provision which would provide for the receiving of producer milk at a receiving station. The record indicates that there are no receiving stations serving the Nashville market. Specific language covering such stations should not be included except insofar as any such station might qualify under the term fluid milk plant as defined herein. Any milk manufacturing, processing, or bottling plant not qualified under such a definition is concluded to be a "nonfluid milk plant." The term nonfluid milk plant is proposed in lieu of, and expresses the intent of, the proposal for a definition of nonhandler made by both producers and handlers.

The term "producer-handler" should include any person who is both a producer and a handler, but who receives no milk from other producers. The term is defined for facility in drafting the subsequent provisions of the order. Although the record indicates that there are no producer-handlers operating in the marketing area at the present time, it is concluded that should a producer-handler begin operation in the market he should be exempt from all responsibilities under the order except that such a person should be required to make reports to the market administrator at such time and in such manner as the market administrator deems necessary.

The handlers' proposal to include a definition of "frozen cream" should not be adopted. This proposal failed to contain any limitation with respect to the location of the cold storage warehouses in which the cream is to be held. Without such a limitation the market administrator could be required to travel great distances in order to verify the fact of storage at the specified temperatures.

The terms "act," "person," "delivery period," "Secretary," "Department of Agriculture," "cooperative association," "other source milk," and "producer milk" should be defined to shorten the language in the subsequent sections of the order. These terms are common to Federal milk marketing orders issued pursuant to the act. No controversy developed at the hearing regarding the definitions of "act," "person," and "delivery period." There was likewise no objection to the inclusion of definitions of the terms "Secretary," "Department of Agriculture," "cooperative association," "other source milk," and "producer milk," but certain suggestions were made regarding the language to be used in these definitions. These suggestions have been adopted.

(3) *Classification of milk.* The classification of milk should be as follows: Class I milk should include all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, and flavored milk drinks, and all skim milk and butterfat not specifically accounted for as Class II milk and Class III milk. Class II milk shall include all skim milk and butterfat disposed of in the form of cream, aerated cream, eggnog, and any other cream product, except ice cream mix, disposed of in fluid form. Class III milk should include all skim milk and butterfat used to produce any item other than those specified in Class I milk and Class II milk, inventory variations, disposed of for animal feed, actual plant shrinkage of skim milk, and butterfat received in producer milk (but not in excess of 3 percent of such receipts of skim milk and butterfat, respectively) and actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received.

Milk, skim milk, buttermilk, flavored milk, and flavored milk drinks sold in the marketing area must be made from approved Grade A milk. The present supply of producer milk is inadequate to meet the minimum requirements for Grade A milk in the marketing area. These items are disposed of in fluid form through the same retail and wholesale channels as bottled fluid milk and are used principally as a beverage. The evidence supporting the classification of skim milk and butterfat disposed of in the form of fluid milk as Class I milk is undisputed. The physical characteristics, purposes, values, and uses of skim milk, buttermilk, flavored milk, and flavored milk drinks are more nearly similar to those of fluid milk than to the products to be classified as Class II and Class III milk. Furthermore, in the pricing of producer milk used in these products recognition is given to the amount of butterfat in these products by pricing the skim milk and butterfat separately. The classification of any of these items in a lower use class would not be in the public interest in that this would necessitate a higher minimum price for the remaining items in Class I in order to return a blend price to producers which is needed to insure a sufficient quantity of pure and wholesome milk for the market.

Fluid cream and cream products, except ice cream mix, disposed of in fluid form, should be classified as Class II milk in order to price the milk from which such products are produced in line with the cost of importing fluid cream from outside sources. Fluid cream has historically been a lower priced product, on an equivalent basis, than has been milk for bottling purposes. Aerated cream, eggnog, and other cream products, except ice cream mix, disposed of in fluid form are a substitute for cream and their sales replace sales of fluid cream. Fluid cream and cream products, except ice cream mix, must likewise be produced from approved Grade A milk.

Handlers contend that there may be some confusion regarding the sale of fluid cream to a nonfluid milk plant for freezing and later utilization in ice cream. The transfer provision of the order provides adequately for such movement and utilization of fluid cream where the nonfluid milk plant is located less than 85 miles from Nashville. There was no evidence of a lack of freezing facilities within that area.

The handlers proposed a Class III use for skim milk and butterfat used to produce products other than those specified in Class I milk and Class II milk except that under their proposal any skim milk or butterfat used in the manufacture of butter, butter oil, casein, lactose, condensed or dry buttermilk, whey, and animal feed would be classified as Class IV milk. The record indicates that the Nashville market is a deficit area in that the quantity of producer milk is insufficient to meet the demand for Grade A milk. All milk other than that used for fluid purposes (Class I milk and Class II milk) should be priced at the paying price of local condenseries for milk for manufacturing purposes with which Class III milk is in direct competition and the the record fails to contain any justification for the pricing of Grade A producer milk at a price lower than that paid for milk by milk manufacturing plants.

While the producers proposed to limit shrinkage allowed in the lowest use class to 1 percent, the evidence indicates that the actual plant shrinkage for fluid milk plants in the marketing area historically has been in excess of 1 percent. Handlers contend that the plant shrinkage allowance should be 3 percent of the total receipts of skim milk and butterfat from all sources. It is concluded that the allowable plant shrinkage on producer milk should be limited to 3 percent of receipts of skim milk and butterfat, respectively, from producers. No limit is proposed for the shrinkage on other source milk since such milk is deducted from the lowest available use classification in the allocation provision.

When producer milk and other source milk are utilized in the same plant it is not administratively feasible to segregate the actual plant shrinkage on producer milk. Consequently, when producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk, the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and other source milk should be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their totals.

Handlers proposed that shrinkage in excess of allowable shrinkage be pro rated between the various classes of utilization in proportion to the actual utilization by such handler in such classes. Such a method of classifying excess shrinkage does not tend to encourage efficient plant operation and would not create equity in the cost of milk between handlers when the utilization of milk in the various classes varies widely between handlers. Any excess shrinkage over and above 3 percent of the total receipts of skim milk and butterfat, respectively, in milk received from producers should, therefore, be classified as Class I milk in order to encourage efficient plant operation and create equity between handlers.

In establishing the classification of milk the responsibility should be placed upon the handler, who first receives milk from producers, to account for all skim milk and butterfat received at a fluid milk plant and to prove to the market administrator that such skim milk and butterfat should not be classified as Class I

milk. Any skim milk or butterfat so classified in one class should be reclassified if used or reused by such handler or by another handler in another class.

The only practical means of administering the regulation and assigning responsibility for correct classification is to consider all skim milk and butterfat as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that it should be classified otherwise. The handler who first receives milk from producers can control the disposition of such milk and maintain the records necessary to prove the utilization reported to the market administrator.

In fluid milk markets producer milk is often stored in some form for later use in a class other than that in which it was originally classified. The interest of both producers and handlers will be protected by requiring adjustments in the payments made for such milk in accordance with its ultimate use. There was no controversy on the record with respect to this procedure, except that both producers and handlers proposed that such adjustments also be followed in cases of transfers of milk from a handler to a nonhandler. It is not practical for the market administrator to make the complete audit of nonhandlers' plants which would be necessary to verify the specific utilization by nonhandlers of milk transferred to them by handlers. Moreover, such adjustments based upon ultimate use by the nonhandlers would be inconsistent with the proposed method of classifying such transfers, to plants of nonhandlers located within a radius of 85 miles from Nashville, on the basis of a utilization mutually agreed upon by both the buyer and the seller, provided that such buyer had actually used not less than an equivalent amount of milk in such agreed class.

(4) *Transfers.* Provisions should be included in the order covering the classification of skim milk and butterfat which is transferred from a fluid milk plant to another fluid milk plant, a producer-handler, or a nonfluid milk plant.

In the case of transfers to a fluid milk plant, except to such a plant operated by a producer-handler, provision should be made for the classification of such milk on the basis of signed statements covering the agreed utilization of such milk: *Provided,* That the buyer actually has used an equivalent amount of skim milk and butterfat in the class indicated in such statement. The evidence with respect to the classification of milk transferred in this manner was undisputed. In the case where other source milk is received in the transferee-plant, the other source milk must be eliminated through the allocation provisions before the final classification of the transferred milk can be ascertained. This is necessary for the protection and proper classification of producer milk, and is in accord with the method of allocating producer milk proposed under the allocation provisions.

Skim milk and butterfat transferred to a producer-handler in the form of any Class I milk item should be classified as Class I milk, and skim milk and butterfat so transferred in the form of any Class II milk item should be classified as Class II milk. Although there are no producer-handlers operating in the market at present, it is believed that should one begin operation his utilization would be almost entirely Class I milk and Class II milk. Under such circumstances, it is not necessary to provide for the classification of any such transfers in a lower class use.

Skim milk and butterfat transferred to a nonfluid milk plant should be classified as Class I milk when transferred in the form of any Class I milk item and as Class II milk when transferred in the form of any Class II milk item, except that when such transfers are made to a nonfluid milk plant located less than 85 miles from the City Hall in Nashville, the classification should be on the basis of claimed utilization: *Provided,* That (i) the buyer maintains books and records showing the utilization of all skim milk and butterfat which are made available if requested by the market administrator and (ii) such buyer has utilized not less than an equivalent amount of skim milk and butterfat in such claimed use. The handlers objected to any distance limitation beyond which milk transferred would not be classified on the basis of actual utilization. The record indicates the impracticability of the market administrator attempting to verify actual utilization of such transfers beyond a reasonable distance. Moreover, there are ample outlets for any possible surpluses of producer milk within the proposed 85 mile zone.

(5) *Allocation of classified skim milk and butterfat.* In the allocation of skim milk and butterfat, producer milk should not be displaced by other source milk.

The recommended definition of other source milk includes milk which is received under an emergency permit issued by the appropriate health authorities in the marketing area for the receipt of such milk. The record indicates that such permits are issued only when sufficient "graded fresh" milk to supply the area is not being produced locally. The Nashville Health Department takes the position that reconstituted milk is definitely a substitute for fresh milk and is not to be desired when and if fresh milk can be obtained from local "Grade A" supplies. As graded production increases locally, importation of skim milk and cream will be decreased correspondingly and all distributors have been so advised by the Health Department.

The proposed provisions of the order provide for the determination of the utilization of producer milk for each handler by subtracting the receipts of skim milk and butterfat in other source milk from the volume of skim milk and butterfat, respectively, in the lowest-priced available class, and then subtracting transfers from other handlers. This procedure is consistent with the Health Department's position and will be instrumental in encouraging a larger volume of producer milk by guaranteeing producers the classification of their milk in the highest-price available class.

(6) *Class prices.* (i) Class prices should be based on prices paid for milk used for manufacturing purposes.

Historically, prices paid for milk used for fluid purposes have been closely related to prices paid for milk used for manufacturing purposes. Production and marketing of milk for each type of manufacturing outlet are subject to many of the same economic factors. Since the market for most manufactured products is country-wide, prices of manufactured dairy products reflect, to a large extent, changes in general economic conditions affecting the supply of and demand for milk. For these reasons fluid milk markets have long used butter, powder, and cheese prices, or the prices paid by condenseries with differentials over these basic or manufacturing prices to establish fluid milk prices. These differentials are needed to cover the cost of meeting quality requirements in the production of market milk and to furnish the necessary incentive to get such milk produced.

It is concluded that the basic formula price to be used in establishing Class I and Class II prices for milk of 4.0 percent butterfat content should be the highest of the following: the "paying" prices of 10 local manufacturing plants; a formula price based upon the open market prices of butter and nonfat dry milk solids; a formula price based upon the open market prices of butter and cheese; or the "paying" prices of 18 condenseries, located in Wisconsin and Michigan, for milk of 3.5 percent butterfat content adjusted by a butterfat differential.

Handlers objected to the use of the paying prices of the 18 condenseries in the basic formula price. Basic formula prices similar to those proposed herein (except the paying price of 10 local manufacturing plants) are contained in the Federal milk order issued pursuant to the act for the Chicago marketing area. The record shows that substantial quantities of emergency milk (principally condensed skim milk and cream) are imported from the Chicago milkshed. Such emergency supplies are commingled with producer milk and sold in bottled form in competition with producer milk. Under these circumstances, the basic formula prices should reflect manufacturing values which influence the prices paid by Nashville handlers for such emergency supplies. Moreover, the inclusion of the 18 condenseries will provide a broader base to reflect an additional manufacturing value.

Both producers and handlers proposed the use of prices paid by local manufacturing plants, a formula price based upon the open market price of butter and nonfat dry milk solids, and a formula price based upon the open market prices of butter and cheese in determining the price of Class I milk and Class II milk.

The handlers excepted to the omission of a 1 cent deduction from the butter price, as proposed by them in the computation of the butter-powder basic formula price. As was indicated with respect to the inclusion of the 18 condenseries paying price, the butter-powder formula proposed to be used is consistent with that contained in the marketing order for the Chicago market from which Nashville draws substantial quantities of emergency sup-

plies. Handlers attempted to justify the 1 cent deduction as a transportation allowance. The record clearly shows that Nashville is a deficit area and that supplies normally move from Chicago to Nashville rather than from Nashville to Chicago. Hence, if transportation costs were to be considered a factor in the basic formula, they would have to be added to, rather than deducted from, the formula.

The handlers offered testimony in favor of the averaging of the formulas for the preceding delivery period as a method of computing the basic price for the current delivery period. The record does not indicate that the arithmetic averaging of the formulas would give proper weight to the price of each manufactured product included in each of the formulas. Moreover, milk produced for manufacturing purposes may be shifted readily from one outlet to another depending upon the relative price prevailing for such outlets. The formula prices for the preceding delivery period should not be used since such a procedure would have the effect of lagging seasonal changes in prices to producers and handlers which are reflected in the basic price.

(ii) The prices that will give milk and its products a purchasing power equivalent to their purchasing power during the base period as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the proposed marketing area, and the prices contained in the proposed marketing agreement and order will reflect such factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest.

The consumption of milk in the Nashville marketing area is at a relatively high level. General economic conditions and business activity in Nashville indicate a continued good demand for milk and milk products. The level of production of Grade A producer milk has been insufficient to meet the needs of Class I milk and Class II milk in the Nashville market. It has been necessary for handlers to supplement their supplies of producer milk in Class I milk and Class II milk with substantial quantities from emergency sources.

The cost of feeds, labor, supplies, and materials incurred by Nashville producers in the production of milk shows an upward trend during 1946–47. Farmers producing milk for fluid purposes must use feed, labor, supplies, and materials more extensively to maintain production at a more uniform level than is required of farmers producing milk for manufacturing purposes. Consequently, the increases in the prices which have taken place in these items affect the fluid milk producers more than dairy farmers supplying manufacturing plants. In addition, a substantial investment is required to provide facilities to meet the requirements for the production of fluid milk for the Nashville market. Furthermore, the day to day expenses of maintaining such equipment, cooling and caring for milk, and sterilizing and caring for equipment are substantially greater than those required for milk for manufacturing purposes.

To reflect these additional costs in the production of Grade A quality milk and to provide the necessary incentive for the production of a sufficient quantity of pure and wholesome milk for the marketing area, the prices of Class I milk and Class II milk must be established at a higher level than the price of milk produced for manufacturing outlets. This should be accomplished by adding fixed differentials to the basic formula price for Class I milk and Class II milk. Such differentials should be $1.25 per hundredweight for Class I milk and $0.75 per hundredweight for Class II. The pricing of Class I milk 50 cents per hundredweight higher than Class II milk will tend to reflect the historical price relationship between bottled milk and fluid cream.

While the basic formula price plus the proposed differentials for Class I and Class II milk, together with the proposed price for Class III milk, will normally return to producers a minimum price for milk which will reflect the economic factors prescribed by the act and assure a sufficient supply of pure and wholesome milk for the marketing area and be in the public interest, there is a distinct possibility that the basic formula price plus the differentials may result in a wholly inadequate price for the coming fall and winter season. The abnormal postwar marketing conditions have created such uncertainties with respect to the prices which will result from the operation of the pricing formula that producers of milk for the Nashville market will be reluctant to maintain or expand the production of milk during the fall and winter season, when production is needed most, unless they are assured that the price of milk will not go below the price required to reflect the standards prescribed in the act. There has been a definite upward trend in the cost of producing milk, and there is no likelihood that such costs will decline in the near future. Moreover, the shortage of producer milk during the fall and winter seasons indicates the need for a price incentive to encourage the increased fall production of Grade A milk. This incentive should be provided by establishing a level of floor prices for the fall and winter months which will be enough higher than the April, May, and June prices to emphasize the seasonal factor in pricing milk. By assuring producers of at least these prices, they will be more inclined to undergo the additional expense required for the care and feeding of spring freshened cows through the fall months and to add fall freshening cows to their herds.

The minimum prices below which the Class I and Class II prices should not be permitted to decline during the coming fall and winter months are the following: For the delivery period from the effective date hereof to and including December, 1947, the price for Class I milk should not be less than $5.35, and for the delivery periods of January and February, 1948, the price for Class I milk should not be less than the December, 1947, price less 40 cents. For the delivery periods from the effective date hereof to and including December, 1947, the price for Class II milk should not be less than $4.85, and for the delivery periods of January and February, 1948, the price for Class II milk should not be less than the December, 1947, price less 40 cents. Compliance with the standards prescribed in the act will require the payment to producers of not less than these Class I and Class II floor prices for the periods indicated.

Handlers excepted to the recommended "floor" price for Class II milk, contending that a proposal therefor was not contained in the hearing notice. The hearing notice contained a proposal for "floor" prices on Class I milk as defined in the producers' proposal which included the products proposed to be classified herein as Class I and Class II milk.

The price for Class III milk should be the same as the paying price of local condenseries for milk used for manufacturing purposes. The items included in Class III need not be made from graded milk. Hence, the producer milk going into these items must compete with ungraded milk.

It is estimated that a blend price of $5.42 per hundredweight for milk of 4.0 percent butterfat content would have resulted had the formulas and prices proposed herein been in effect during the 12 months ending May 31, 1947. During such 12-month period the parity price, on the basis of milk of similar test, averaged $3.78, calculated on the basis of the purchasing power of milk for the period August 1922–July 1929.[1] The parity price for 4.0 percent milk in May 1947 was $4.10, as compared with an estimated blend price of $4.60 for 4.0 percent milk which would have resulted if the proposed marketing agreement and order had been in effect for the month of May 1947. To the extent that the recommended class prices will result in blend prices exceeding such parity level, they are fully justified on the basis of evidence concerning the price and supplies of feeds and other economic conditions affecting market supplies and demand for milk and to such extent the parity level is not reasonable.

The estimated blend prices referred to above compare with the prevailing prices in the market as follows: The average price (flat price) paid to producers for all milk of 4.0 percent butterfat content during the 12 month period preceding June, 1947, was $4.76 per hundredweight. The price paid during the month of May, 1947, was $4.55.

The prices on milk with reference to a butterfat content of 4.0 percent follows the custom of the market and is consistent with the proposal of both producers and handlers.

(iii) The price computed for each class on the basis of milk containing 4.0 percent butterfat should be adjusted to reflect the weighted averaged butterfat content of the several products classified in the respective classes. Such differential for Class III milk should be on

[1] See *Additional findings.*

the basis of the value of 92-score butter in the Chicago market plus 20 percent. This differential is in line with the general level of manufacturing values. With respect to Class II milk, such differential should be on the basis of the value of 92-score butter in the Chicago market plus 35 percent. Such differential brings the price of fluid cream in line with the price that Nashville handlers would receive for any cream sold in the principal cream markets. With regard to Class I milk, such differential should be on the basis of the value of 92-score butter in the Chicago market plus 40 percent. Such differential reflects the higher-valued use of butterfat in Class I milk.

(iv) The proposal for a special price for Class I milk disposed of by handlers to markets outside of the marketing area should not be adopted while the Nashville market is so short of producer milk that the importation of substantial quantities of emergency milk is necessary to meet fluid milk requirements in the marketing area.

(v) The proposal for the inclusion of the emergency price provision should not be adopted. Such a provision was included in Federal milk marketing orders issued during the war period to cover certain emergencies which no longer exist.

(7) *Payments to producers.* Provision should be made for a market-wide type of pool in order that all producers delivering milk to all handlers may receive a uniform price for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered. This method of paying producers will require a producer-settlement fund for making adjustments in payments, as among handlers, to the end that the total sums paid by each handler shall equal the value of the milk received by him at the prices fixed in the proposed marketing agreement and order. The evidence in support of the market-wide pool method of payment was not disputed.

In the computation of the value of producer milk, provision should be made for the inclusion in such value of the value of milk classified in excess of reported receipts from producers, handlers, and other sources. This provision is common to orders issued pursuant to the act and is necessary to cover discrepancies between the reported and actual weights and tests of milk received from producers.

Handlers have suggested that the term "skim milk" be qualified by specifically indicating that, whenever the term is used the term includes "reconstituted skim milk." The provisions of the proposed order are so drafted that, whenever the term "skim milk" is used, it necessarily includes, in the case of concentrated skim milk products, the volume of fluid skim milk used to produce the concentrated skim milk product.

Although the uniform price is computed only once a month, provision should be made for payment to producers semi-monthly. Both handlers and producers proposed that an advance payment covering the first 15 days of the delivery period should be made on or before the last day of the delivery period. Producers have customarily been paid every 2 weeks and it is concluded that this practice should be continued. The record indicates that the mid-delivery period payment should not be at a fixed price, or the rate of the uniform price for the preceding period, since these rates may require a handler to overpay a producer. Such payment at the rate of 75 percent of the uniform price for the preceding delivery period will avoid such overpayments. The final payment for each delivery period should be made on or before the 15th day after the end of the delivery period. Handlers proposed a later date for final payment. However, payment on the 15th day after the delivery period will, in effect, result in producers extending credit to handlers for milk for a period of from 2 weeks to a month. Producers should not be required to wait a longer period for payment. All dates covering reports of handlers, computation and announcement of uniform prices, and payments to and out of the producer-settlement fund have been established to enable such payments. A reasonably adequate time is allowed handlers to comply with these provisions.

All payments made direct to producers or through the producer-settlement fund should be adjusted for errors made in such payments for preceding delivery periods. The adjustment of errors in making payments should not be limited to 90 days from the date of any such error as suggested by the handlers. Such a limitation is impracticable in that it would not allow sufficient time for auditing records and the settlement of disputed accounts.

The market administrator in making payments to any handler from the producer-settlement fund should offset such payments by the amount of payments due from such handler. This is sound business practice. Without this provision, the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing fraudulent reports or who owes money to the producer-settlement fund but who is financially unable to make full payment of all of his debts.

(8) *Administrative assessment.* Each handler should be required to pay to the market administrator, as such handler's pro rata share of the expenses necessarily incurred by the market administrator, 4 cents per hundredweight, or such lesser sum as may be prescribed by the Secretary, on all skim milk and butterfat received by a handler in a fluid milk plant. Each cooperative association which is a handler should pay such pro rata share of expense on milk of producers caused to be diverted by it from a fluid milk plant to any milk distributing or milk manufacturing plant for the account of such association.

The market administrator is required to verify the disposition of all milk received whether producer milk or other source milk, and other source milk should bear its pro rata share of the administrative cost. Substantial quantities of emergency milk are received by handlers in the market and such a charge will apportion the expenses of administration more equitably between handlers. Both handlers and producers recognize that the market administrator should have the necessary funds to enable him to administer properly the terms of the order. However, handlers contended that a maximum assessment of 2 cents per hundredweight should be sufficient. In view of the volume of skim milk and butterfat on which such rate of assessment would apply, a maximum rate of 4 cents per hundredweight should be adopted in order to guarantee sufficient funds for the proper and efficient administration of the order. In the event a lesser amount proves to be sufficient for such administration, provision should be made to enable the Secretary to reduce the assessment accordingly.

Handlers proposed that the account of the market administrator be audited annually by a licensed auditing firm in the State of Tennessee. Since the United States Department of Agriculture maintains a staff of auditors for such purpose and since the adoption of such proposal would increase the cost of administering the order, it is concluded that such a provision is not warranted.

(9) *Deductions for marketing services.* Provision should be made for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers for whom such services are not being rendered by a cooperative association qualified under the provisions of the act of Congress of February 18, 1922, as amended known as the "Capper-Volstead Act." The deductions for these services from payments to producers should be at the rate of 6 cents per hundredweight, or much lesser rate as may be determined by the Secretary. Such deductions were proposed by the producer association. Handlers contended that a maximum of 3 cents per hundredweight should provide sufficient funds to finance such services for producers who are not members of the association since the services performed for nonmember producers would not be as comprehensive as those presently performed by the cooperative association for its members. The majority of producers are members of the association. In view of the relatively small number of nonmembers for which such services would be performed, the cost of performing such services for nonmembers will approximate 6 cents per hundredweight. If it should develop that the cost of such service is less than 6 cents per hundredweight, provision should be made for a smaller deduction. In the event any qualified cooperative association of producers is determined to be performing such services for its members, handlers would be required to pay to the cooperative association such deductions as are authorized by the members of the association.

(10) *Administrative provisions.* The marketing agreement and order should provide for other general administrative provisions which are common to all orders and which are necessary for proper and efficient administration of the order. These provisions provide for the

selection of a market administrator, define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making computations required by the order, and provide a plan for liquidation of the order in the event of its suspension or termination.

The principal issue raised with regard to these provisions was the handlers' objection to the powers granted the market administrator to make rules and regulations to effectuate the provisions of the order. The making of rules and regulations by the market administrator was supported by the evidence, and such a provision is specifically provided for in section 8c (7) (C) (ii) of the Agricultural Marketing Agreement Act of 1937, as amended, and the proposed language is substantially the same as the statutory language. Any rules or regulations as may be issued by the market administrator must be issued in accordance with all applicable legal requirements.

Handlers excepted to § 978.3 (c) (4) of the recommended order which provided: "Make such examinations of operations, equipment, and facilities as the market administrator deems necessary." The undisputed evidence shows that knowledge of the operations, equipment, and facilities of a handler is necessary for the proper verification of such handler's reports.

All other objections raised by either the handlers or producers with regard to these provisions dealt with the language thereof, and they have been worded in the proposed marketing agreement and order so as to eliminate such objections.

Additional findings. (a) It is hereby found and proclaimed in connection with the issuance of this decision regarding the proposed marketing agreement and the proposed order regulating the handling of milk in the Nashville, Tennessee, marketing area, that the purchasing power of such milk during the prewar period August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1922–July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture, and the period August 1922–July 1929 is the base period to be used in connection with the said marketing agreement and said order in determining the purchasing power of such milk.

(b) The proposed marketing order will regulate the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial or commercial activity specified in the proposed marketing agreement upon which the hearing was held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the Nashville, Tennessee, Marketing Area" and "Order Regulating the Handling of Milk in the Nashville, Tennessee, Marketing Area," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered that all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the attached order, which will be published with the decision.

This decision filed at Washington, D. C., this 27th day of October 1947.

[SEAL] N. E. DODD,
Acting Secretary of Agriculture.

Order[1] Regulating the Handling of Milk in the Nashville, Tennessee, Marketing Area

§ 978.0 *Findings upon the basis of the hearing record.* (a) Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Cum. Supp. 900.1 et seq., 11 F. R. 7737; 12 F. R. 1159, 4904), a public hearing was held upon a proposed marketing agreement and a proposed order regulating the handling of milk in the Nashville, Tennessee, marketing area. Upon the basis of evidence introduced at such hearings and the record thereof, it is found that:

(1) The said order, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held; and

(4) All milk and milk products, handled by handlers, as defined herein, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) *Additional findings.* (1) It is hereby found and proclaimed in connection with the execution of a tentative marketing agreement and the issuance of this order regulating the handling of milk in the said marketing area, that the purchasing power of such milk during the prewar period of August 1909–July 1914 cannot be satisfactorily determined from available statistics of the Department of Agriculture, but the purchasing power of such milk for the period August 1922–July 1929 can be satisfactorily determined from available statistics of the Department of Agriculture, and the period August 1922–July 1929 is the base period to be used in connection with the said marketing agreement and this order in determining purchasing power of such milk.

(2) It is hereby found that the necessary expenses of the market administrator for the maintenance and functioning of such agency will require the payment by (i) each handler, as his pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (*a*) milk from producers (including such handler's own production) and (*b*) other source milk received at a handler's fluid milk plant, and (ii) each cooperative association as its pro rata share of such expenses, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to milk of producers caused to be diverted by it pursuant to § 978.1 (k) (2).

Order relative to handling. It is hereby ordered, that on and after the effective date hereof, the handling of milk in the Nashville, Tennessee, marketing area shall be in conformity to and in compliance with the following terms and conditions:

§ 978.1 *Definitions.* The following terms shall have the following meanings:

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by executive order to perform the price reporting functions of the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association, or any other business unit.

(e) "Nashville, Tennessee, marketing area" hereinafter called the "marketing area" means all the territory within Davidson County, Tennessee, including but not being limited to the Cities of Nashville and Belle Meade.

(f) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

(g) "Producer-handler" means any person who is both a producer and a handler who receives no milk from other producers.

(h) "Delivery period" means a calendar month, or the portion thereof during which this order is in effect.

(i) "Fluid milk plant" means the premises and the portions of the building and facilities used in the receipt and processing or packaging of producer milk, all, or a portion, of which is disposed of from such plant within the delivery period as Class I milk in the marketing area; but not including any portion of such building or facilities used for receiving or processing milk or any milk product required by the appropriate health authority in the marketing area to be kept physically separate from the receiving and processing or packaging of milk for disposition as Class I milk in the marketing area.

(j) "Producer" means any person who produces milk under a dairy farm inspection permit issued by the appropriate health authority in the marketing area, and whose milk conforms to the appropriate health standards for milk for fluid consumption, which milk is: (1) Received at a fluid milk plant, or (2) diverted from a fluid milk plant to any milk distributing or milk manufacturing plant: *Provided,* That any such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted.

(k) "Handler" means (1) any person who operates a fluid milk plant, or (2) any cooperative association of producers with respect to producer milk diverted by it from a fluid milk plant to any milk distributing or milk manufacturing plant for the account of such association.

(l) "Nonfluid milk plant" means any milk manufacturing, processing, or bottling plant other than a fluid milk plant described in paragraph (i) of this section.

(m) "Other source milk" means all skim milk and butterfat in any form received from a source other than a producer or handler, and all skim milk and butterfat transferred in any form by a producer-handler to any handler.

(n) "Producer milk" means milk produced by one or more producers.

§ 978.2 *Market Administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to this order:

(1) To administer its terms and provisions;

(2) To receive, investigate, and report to the Secretary complaints of violations;

(3) To make rules and regulations to effectuate its terms and provisions; and

(4) To recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this order, including, but not limited to, the following:

(1) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(2) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(3) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(4) Pay, out of the funds provided by § 978.9: (i) the cost of his bond and of the bonds of his employees, (ii) his own compensation, and (iii) all other expenses, except those incurred under § 978.10, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(5) Keep such books and records as will clearly reflect the transactions provided for herein, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(6) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 5 days after the day upon which he is required to perform such act, has not made (i) reports pursuant to § 978.3 (a) or (ii) payments pursuant to § 978.8;

(7) Submit his books and records to examination by the Secretary and furnish such information and reports as may be required by the Secretary;

(8) Prepare and make available for the benefit of producers, consumers, and handlers, general statistics and information concerning the operation hereof as are necessary and essential to the proper functioning of this marketing order;

(9) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(10) Publicly announce the prices and butterfat differentials determined for each delivery period as follows: (i) On or before the 6th day after the end of such delivery period, the prices and butterfat differentials for each class computed pursuant to § 978.5; and (ii) on or before the 10th day after the end of such delivery period, the uniform price, computed pursuant to § 978.7 (b) and the butterfat differentials to be paid pursuant to § 978.8 (f)

§ 978.3 *Reports, records, and facilities*—(a) *Delivery period reports of receipts and utilization.* On or before the 6th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in (i) all receipts at his fluid milk plant(s) within such delivery period of (a) producer milk, (b) milk, skim milk, cream, and milk products from other handlers, and (c) other source milk; and (ii) milk diverted pursuant to § 978.1 (j) (2), and

(2) The utilization of all skim milk and butterfat required to be reported under subparagraph (1) of this paragraph.

(b) *Other reports.* Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator as follows, except that each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may request:

(1) On or before the 20th day after the end of each delivery period, if requested by the market administrator, his producer payroll for such delivery period which shall show for each producer (i) the total pounds of milk delivered with the average butterfat test thereof, and (ii) the net amount of such handler's payment to such producer together with the price, deductions, and charges involved.

(2) On or before the first day other source milk is received his intention to receive such milk, and on or before the last day such milk is received his intention to discontinue such receipts.

(c) *Records and facilities.* Each handler shall keep adequate records of receipts and utilization of skim milk and butterfat and shall, during the usual hours of business, make available to the market administrator or his representative such records and facilities as will enable the market administrator to (1) verify the receipts and utilization of all skim milk and butterfat and, in case of errors or omissions, ascertain the correct figures; (2) weigh, sample, and test for butterfat content all milk and milk products handled; (3) verify payments to producers; and (4) make such examinations of operations, equipment, and facilities, as the market administrator deems necessary.

§ 978.4 *Classification of milk*—(a) *Basis of classification.* All skim milk and butterfat contained in (1) milk, skim milk, cream, and milk products received at a fluid milk plant and (2) producer milk diverted pursuant to § 978.1 (j) (2) shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) *Classes of utilization.* Subject to the conditions set forth in paragraphs (c), (d) (e) and (f) of this section, the classes of utilization shall be as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, and flavored milk drinks, and (ii) not specifically accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all skim milk and butterfat disposed of in the form of

cream, aerated cream, eggnog, and any other cream product, except ice cream mix, disposed of in fluid form.

(3) Class III milk shall be all skim milk and butterfat: (i) used to produce any item other than those specified in subparagraphs (1) and (2) of this paragraph; (ii) in inventory variations; (iii) disposed of for livestock feed; (iv) in actual plant shrinkage of skim milk and butterfat received in producer milk, but not in excess of 3 percent of such receipts of skim milk and butterfat, respectively, hereinafter known as allowable shrinkage; and (v) in actual plant shrinkage of skim milk and butterfat, respectively, in other source milk received: *Provided,* That if producer milk is utilized as milk, skim milk, or cream in conjunction with other source milk the shrinkage of skim milk and butterfat, respectively, allocated to producer milk and other source milk shall be computed pro rata according to the proportions of the volumes of skim milk and butterfat, respectively, received from such sources to their total.

(c) *Responsibility of handlers and reclassification of milk.* (1) All skim milk and butterfat shall be classified as Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified in another class.

(2) Any skim milk or butterfat classified (except that transferred to a producer-handler) in one class shall be reclassified if used or reused by such handler or by another handler in another class.

(d) *Transfers.* Skim milk or butterfat disposed of by a handler either by transfer or diversion shall be classified:

(1) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a fluid milk plant of another handler (except a producer-handler), unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the delivery period within which such transaction occurred: *Provided,* That skim milk or butterfat so assigned to a particular class shall be limited to the amount thereof remaining in such class in the plant of the transferee-handler after the subtraction of other source milk pursuant to paragraph (f) of this section, and any excess of such skim milk or butterfat, respectively, shall be assigned in series beginning with the next highest-priced available utilization.

(2) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a producer-handler.

(3) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a nonfluid milk plant located less than 85 miles from the City Hall at Nashville, Tennessee, by the shortest highway distance as determined by the market administrator, unless (i) the handler claims another class on the basis of a utilization mutually indicated in writing to the market administrator by both the operator of the nonfluid milk plant and the handler on or before the 6th day after the end of the delivery period within which such transaction occurred, (ii) the operator of the nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (iii) not less than an equivalent amount of skim milk and butterfat was actually utilized in such plant in the use indicated in such statement: *Provided,* That if upon inspection of the records of such plant it is found that an equivalent amount of skim milk and butterfat was not actually used in such indicated use the remaining pounds shall be classified on the basis of the next highest-priced available use in accordance with the classes set forth in paragraph (b) of this section.

(4) As Class I milk if transferred or diverted in the form of any item specified in paragraph (b) (1) of this section and as Class II milk if so disposed of in the form of any item specified in paragraph (b) (2) of this section to a nonfluid milk plant located 85 miles or more from the City Hall in Nashville, Tennessee, by the shortest highway distance as determined by the market administrator.

(e) *Computation of skim milk and butterfat in each class.* For each delivery period, the market administrator shall correct for mathematical and other obvious errors the delivery period report submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

(f) *Allocation of skim milk and butterfat classified.* (1) The pounds of skim milk remaining in each class after making the following computations for each handler for each delivery period shall be the pounds in such class allocated to producer milk received by such handler:

(i) Subtract allowable shrinkage of skim milk from the total pounds of skim milk in Class III milk;

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced available use, the pounds of skim milk in other source milk;

(iii) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other handlers and assigned to such class pursuant to paragraph (d) (1) of this section;

(iv) Add to the pounds of skim milk remaining in Class III milk the pounds of skim milk subtracted pursuant to subdivision (i) of this subparagraph; or if the pounds of skim milk remaining in all classes exceeds the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class, in series beginning with the lowest-priced utilization.

(2) Allocate the pounds of butterfat in each class to producer milk in the same manner prescribed for skim milk in subparagraph (1) of this paragraph.

(3) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, respectively, as computed pursuant to subparagraphs (1) and (2) of this paragraph, and determine the percentage of butterfat in each class.

§ 978.5 *Minimum prices*—(a) *Basic formula price.* The basic formula price per hundredweight (computed to the nearest tenth of a cent) to be used in determining the price for Class I milk and Class II milk pursuant to paragraph (b) of this section shall be highest of the prices per hundredweight for milk of 4.0 percent butterfat content computed pursuant to subparagraph (1) (2) or (3) of this paragraph, or paragraph (b) (3) of this section.

(1) To the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies listed below:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mt. Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the butterfat differential computed pursuant to § 978.8 (f) by 5.

(2) The price per hundredweight computed as follows:

(i) Multiply by 6 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period;

(ii) Add an amount equal to 2.4 times the arithmetical average of the weekly prevailing price per pound of "Twins" during the delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin: *Provided,* That if the price of "Twins" is not quoted on such Exchange, the weekly prevailing price per pound of "Cheddars" shall be used; and

(iii) Divide by 7, add 30 percent thereof, and then multiply by 4.

(3) The price per hundredweight computed as follows:

Multiply by 4.0 the arithmetical average of daily wholesale prices per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, add 20 percent thereof, and add to such sum 3¾ cents for each full ½ cent that the arithmetical average of carlot prices

per pound of nonfat dry milk solids (not including that specifically designated animal feed) spray and roller process, f. o. b. Chicago area manufacturing plants, as reported by the Department of Agriculture during the delivery period, is above 5 cents: *Provided,* That if such f. o. b. manufacturing plant prices of nonfat dry milk solids are not reported there shall be used for the purpose of such computation the arithmetical average of the carlot prices of nonfat dry milk solids delivered at Chicago, Illinois, as reported weekly by the Department of Agriculture during the delivery period; and in the latter event the "5 cents" shall be increased by 1 cent.

(b) *Class prices.* Subject to the provisions of paragraph (c) of this section, each handler shall pay producers, at the time and in the manner set forth in § 978.8, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk, Class II milk, and Class III milk computed pursuant to § 978.4 (f)

(1) *Class I milk.* The price for Class I milk shall be the basic formula price plus $1.25: *Provided,* That for the delivery periods from the effective date hereof to and including December 1947, the price for Class I milk shall not be less than $5.35, and that for the delivery periods of January and February 1948, the price for Class I milk shall not be less than the December 1947 price less 40 cents.

(2) *Class II milk.* The price for Class II milk shall be the basic formula price plus 75 cents: *Provided,* That for the delivery periods from the effective date hereof to and including December 1947, the price for Class II milk shall not be less than $4.85, and that for the delivery periods of January and February 1948, the price for Class II milk shall not be less than the December 1947 price less 40 cents.

(3) *Class III milk.* The price per hundredweight for Class III milk shall be the arithmetical average of the basic (or field) prices reported to have been paid or to be paid per hundredweight for milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture on or before the 6th day after the end of the delivery period by the companies indicated below:

Company and Location

Cudahy Packing Co., Lafayette, Tenn.
Carnation Co., Murfreesboro, Tenn.
Kraft Foods Co., Gallatin, Tenn.
Borden Co., Fayetteville, Tenn.
Swift and Co., Lebanon, Tenn.
Borden Co., Lewisburg, Tenn.
Giles County Dairy Products, Pulaski, Tenn.
Lakeshire-Marty Cheese Co., Carthage, Tenn.
Swift and Co., Lawrenceburg, Tenn.
Wilson and Co., Murfreesboro, Tenn.

(c) *Butterfat differential to handlers.* If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 978.4 (f), is more or less than 4.0 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 4.0 percent, a butterfat differential (computed to the nearest 10th of a cent) calculated for each class of utilization as follows:

(1) *Class I milk.* Multiply by 1.4 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(2) *Class II milk.* Multiply by 1.35 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

(3) *Class III milk.* Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10.

§ 978.6 *Application of provisions*—(a) *Producer-handlers.* Sections 978.4, 978.5, 978.7, 978.8, 978.9, and 978.10 shall not apply to producer-handlers.

(b) Milk received at a fluid milk plant which milk is subject to the pricing and payment provisions of any other Federal milk marketing agreement or order issued pursuant to the act for any fluid milk marketing area shall be considered as other source milk.

§ 978.7 *Determination of uniform price*—(a) *Computation of value of milk.* The value of producer milk received during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of such milk in each class for the delivery period by the applicable class price and adding together the resulting amounts: *Provided,* That if a handler, after subtracting receipts of other source milk and receipts from other handlers, has disposed of skim milk or butterfat in excess of the skim milk or butterfat which, on the basis of his report for the delivery period pursuant to § 978.3 (a) has been credited to producers as having been received from them, there shall be added an amount computed by multiplying the pounds in each class as subtracted pursuant to subparagraphs (1) (iv) and (2) of § 978.4 (f) by the applicable class price adjusted by the butterfat differentials to handlers specified in § 978.5 (c)

(b) *Computation of the uniform price.* For each delivery period, the market administrator shall compute the uniform price per hundredweight for milk, on the basis of 4.0 percent butterfat content, received from producers as follows:

(1) Combine into one total the values computed pursuant to paragraph (a) of this section for all handlers who made the reports prescribed by § 978.3 (a) for such delivery period, except those in default of payments required pursuant to § 978.8 (c) for the preceding delivery period;

(2) Subtract, if the average butterfat content of producer milk represented by the values included under subparagraph (1) of this paragraph is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 4.0 percent by the butterfat differential computed pursuant to § 978.8 (f), and multiply the result by the total hundredweight of such milk;

(3) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 978.8 (d)

(4) Divide the resulting amount by the total hundredweight of producer milk included in these computations; and

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining in the producer-settlement fund a cash balance to provide against errors in reports and payments or delinquencies in payments by handlers. This result shall be known as the "uniform price" per hundredweight for such delivery period for producer milk containing 4.0 percent butterfat, f. o. b. fluid milk plant.

(c) *Notification of handlers.* On or before the 10th day after the end of each delivery period, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The amount and value of his producer milk in each class and the total thereof;

(2) The uniform price computed pursuant to paragraph (b) of this section and the butterfat differentials computed pursuant to § 978.8 (f), and

(3) The amounts to be paid by such handler pursuant to §§ 978.8 (c), 978.9, and 978.10.

§ 978.8 *Payments to producers*—(a) *Time and method of payment.* (1) On or before the last day of each delivery period, each handler shall make payment to each producer, at not less than 75 percent of the uniform price per hundredweight for the preceding delivery period, for milk received from such producer during the first 15 days of such delivery period: *Provided,* That for the first delivery period under this order such payment shall be not less than 75 percent of the price per hundredweight for 4.0 percent milk paid to producers by such handler for milk delivered during the last half of the immediately preceding delivery period.

(2) On or before the 15th day after the end of each delivery period, each handler shall make payment to each producer, for milk received from such producer during such delivery period, at not less than the uniform price per hundredweight computed pursuant to § 978.7 (b), subject to the following adjustments: (i) the butterfat differential pursuant to paragraph (f) of this section, (ii) less payment made pursuant to subparagraph (1) of this paragraph, (iii) less marketing service deductions pursuant to § 978.10, (iv) less deductions authorized by the producer, and (v) any error in calculating payment to such individual producer for past delivery periods: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to paragraph (d) of this section, he may reduce uniformly per hundred-

weight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) of this section, and out of which he shall make all payments pursuant to paragraphs (d) and (e) of this section: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

(c) *Payments to the producer-settlement fund.* On or before the 13th day after the end of each delivery period, each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 978.7 (a) for such delivery period is greater than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section.

(d) *Payments out of the producer-settlement fund.* On or before the 14th day after the end of each delivery period, the market administrator shall pay to each handler, for payment to producers, any amount by which the total value of his milk computed pursuant to § 978.7 (a) for such delivery period is less than an amount computed by multiplying the hundredweight of milk received from producers during the delivery period by the uniform price adjusted for the butterfat differential provided for in paragraph (f) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(e) *Adjustment of errors in payments.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to paragraph (c) of this section, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to paragraph (d) of this section, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by this section, the handler shall pay such balance due such producer not later than the time of making payment to producers next following such disclosure.

(f) *Butterfat differential to producers.* If, during the delivery period, any handler has received from any producer, milk having an average butterfat content other than 4.0 percent, such handler, in making payments prescribed in paragraph (a) (2) of this section, shall add to the uniform price per hundredweight paid to such producer for each one-tenth of 1 percent that the average butterfat content of such milk is above 4.0 percent not less than, or shall deduct from the uniform price per hundredweight for each one-tenth of 1 percent that the average butterfat content of such milk is below 4.0 percent not more than, an amount computed as follows: Multiply by 1.2 the average daily wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture during the delivery period, and divide the result by 10, and then adjust to the nearest one-tenth of a cent.

(g) *Statement to producers.* In making payments required by paragraph (a) (2) of this section each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The delivery period and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of paragraphs (a) and (f) of this section;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 978.10, together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

§ 978.9 *Expense of administration.* As his pro rata share of the expense of the administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of each delivery period, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to receipts, during the delivery period, of (a) milk from producers (including such handler's own production), and (b) other source milk received at a fluid milk plant. Each cooperative association which is a handler shall pay such pro rata expense on only that milk of producers caused to be diverted by it pursuant to § 978.1 (k) (2)

§ 978.10 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 978.8 (a) (2) shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers during the delivery period and shall pay such deductions to the market administrator not later than the 15th day after the end of the delivery period. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from producers during the delivery period and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions, as are authorized by such producers and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association rendering such services.

§ 978.11 *Effective time, suspension, and termination*—(a) *Effective time.* The provisions hereof, or any amendments hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions hereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* (1) If, upon the suspension or termination of any or all of the provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(2) The market administrator, or such other person as the Secretary may designate (i) shall continue in such capacity until discharged by the Secretary; (ii) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and (iii) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator or such

person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 978.12 *Separability of provisions.* If any provisions hereof, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions hereof, to other persons or circumstances shall not be affected thereby.

§ 978.13 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions hereof.

[F. R. Doc. 47-9703; Filed, Oct. 30, 1947; 8:46 a. m.]

FEDERAL SECURITY AGENCY

Food and Drug Administration

[21 CFR, Part 36]

[Docket No. FDC-50]

DEFINITIONS AND STANDARDS OF IDENTITY; STANDARDS OF FILL OF CONTAINER FOR CANNED OYSTERS

ORDER EXTENDING TIME FOR FILING EXCEPTIONS TO TENTATIVE ORDER

The tentative order herein (12 F. R. 6699, October 10, 1947) provides that interested persons may, within twenty (20) days from the date of publication thereof, file exceptions to the tentative order establishing definitions and standards of identity and amending the standards of fill of container for canned oysters.

It now appears that twenty (20) days is not sufficient to permit filing of exceptions.

It is ordered, therefore, That an additional thirty (30) days be granted for filing such exceptions.

Dated: October 27, 1947.

[SEAL] OSCAR R. EWING, *Administrator*

[F. R. Doc. 47-9701; Filed, Oct. 30, 1947; 8:45 a. m.]

NOTICES

TREASURY DEPARTMENT

United States Coast Guard

[CGFR 47-52]

APPROVAL OF EQUIPMENT; TERMINATION OF APPROVAL OF EQUIPMENT

By virtue of the authority vested in me by R. S. 4405 and 4491, as amended (46 U. S. C. 375, 491a) and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875) as well as the additional authorities cited with each class of equipment, the following approvals of equipment and termination of approvals are prescribed:

BUOYANT CUSHIONS, STANDARD

NOTE: Cushions are for use on motorboats of Classes A, 1 and 2 not carrying passengers for hire.

Approval No. 160.007/57/0, Standard kapok buoyant cushion, U. S. C. G. Specification 160.007, manufactured by Orr and Baker, 1303½ Tenth Street, Port Huron, Mich.

(54 Stat. 164, 166; 46 U .S. C. 526e, 526p; 46 CFR 25.4-1, 28.4-8)

BUOYANT CUSHIONS, NON-STANDARD

NOTE: Cushions are for use on motorboats of Classes A, 1 and 2 not carrying passengers for hire.

Approval No. 160.008/377/0, 17" x 17" x 2½" rectangular buoyant cushion, 33 oz. kapok, U. S. C. G. Specification 160.008, specifications and drawing dated 25 September 1947, manufactured by Orr and Baker, 1303½ Tenth Street, Port Huron, Mich.

Approval No. 160.008/378/0, 15" x 15" x 2" rectangular buoyant cushion, 20 oz. kapok, plastic film cover, plastic straps, heat-sealed seams, specifications dated 8 July 1947, manufactured by the Watertight Slide Fastener Corp., 15 Whitehall Street, New York 4, N. Y.

(54 Stat. 164, 166; 46 U. S. C. 526e, 526p; 46 CFR 25.4-1, 28.4-8)

TERMINATION OF APPROVAL OF HEATING BOILER

The following approval for a heating boiler is terminated because the heating boiler is no longer being manufactured:

Termination of Approval No. 162.003/15/0, Farquhar heating boiler, vertical fire tube, welded steel plate, material, design and construction in conformance with U. S. Coast Guard Marine Engineering Regulations and Material Specifications, Parts 51, 52, and 56, maximum working pressure 15 p. s. i., manufactured by A. B. Farquhar Co., York, Pa. (Published in FEDERAL REGISTER July 31, 1947, 12 F. R. 5223)

CONDITIONS OF APPROVAL AND TERMINATION OF APPROVAL

The above approvals of equipment shall be effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority.

The termination of approval of equipment made by this document shall be made effective upon the thirty-first day after the date of publication of this document in the FEDERAL REGISTER. Notwithstanding this termination of approval on any item of equipment, such equipment manufactured before the effective date of termination of approval may be used so long as it is in good and serviceable condition.

Dated: October 24, 1947.

[SEAL] J. F FARLEY, *Admiral, U. S. Coast Guard, Commandant.*

[F. R. Doc. 47-9698; Filed, Oct. 30, 1947; 9:06 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 3092]

AERLINTE EIREANN TEORANTA

NOTICE OF HEARING

In the matter of the application of Aerlinte Eireann Teoranta pursuant to section 402 of the Civil Aeronautics Act of 1938, as amended, for a foreign air carrier permit authorizing the foreign air transportation of persons, property and mail between Ireland, intermediate points, and New York, N. Y. (via Boston, Mass.) and Chicago, Ill.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 402 and 1001 of said act, that a hearing in the above-entitled proceeding is assigned to be held on November 10, 1947, at 10 a. m. (eastern standard time) in Room 1508, Commerce Building, 14th Street between Constitution Avenue and E Street, N. W., Washington, D. C., before Examiner Barron Fredricks.

Without limiting the scope of the issues presented by said application, particular attention will be directed to the following matters and questions:

1. Whether the proposed air transportation will be in the public interest, as defined in section 2 of the Civil Aeronautics Act of 1938, as amended.

2. Whether the applicant is fit, willing and able to perform such transportation.

3. Whether the authorization of the proposed transportation is consistent with any obligation assumed by the United States in any treaty, convention or agreement in force between the Government of the United States and the Government of Ireland.

Notice is further given that any person desiring to be heard in opposition to the application in this proceeding must file with the Board, on or before November 10, 1947, a statement setting forth the issues of fact or law raised by said application which he desires to controvert.

For further details of the service proposed and authorization requested, interested parties are referred to the application on file with the Civil Aeronautics Board.

Dated at Washington, D. C., October 28, 1947.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F R. Doc. 47-9716; Filed, Oct. 30, 1947; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

CITIZENS RADIO SERVICE

TECHNICAL REQUIREMENTS AND PROCEDURE FOR OBTAINING TYPE APPROVAL OF RADIO EQUIPMENT TO BE OPERATED

OCTOBER 24, 1947.

The Commission on July 15, 1947 published proposed technical requirements and procedure for obtaining type approval of radio equipment to be operated in the Citizens Radio Service. No comments, or objections, were received and the requirements and procedures proposed have been adopted in final rule form under the designation: Part 19, Rules and Regulations Governing Citizens Radio Service.[1]

Since technical requirements for operation in the Citizens Radio Service and procedures for obtaining type approval of equipment to be used in this service have been determined, it is believed that public interest would be served by adopting that portion of Part 19 which pertains to such requirements and procedures in advance of the promulgation of rules relating to licensing procedure. This will make possible the design of equipment intended for use or operation in the 460–470 megacycle frequency band, allocated to the Citizens Radio Service, in accordance with the technical requirements of that service, and will permit manufacturers to make such equipment available to the public at the time licensing procedures are adopted as well as to request prior type approval, if they so desire.

It is expected that a notice of proposed rule making covering licensing procedure and regulations concerning use or operation of stations in the Citizens Radio Service will be published at an early date.

Although radio equipment may be submitted to the Commission for type approval immediately following the effective date of §§ 19.1, 19.101 through 19.108, and §§ 19.201 through 19.205, licenses for operation of Citizens Radio Stations upon a regular basis will not be issued until the complete Part 19 is adopted. Accordingly, operation of citizens radio stations will continue upon an experimental basis pending the adoption of additional rules in Part 19 to outline the licensing procedure and to specify the conditions under which citizens radio stations may be used or operated.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9725; Filed, Oct. 30, 1947; 8:47 a. m.]

[1] See F. R. Doc. 47-9724 under Title 47, Chapter I, *supra.*

FEDERAL POWER COMMISSION

[Docket No. G-962]

TENNESSEE GAS TRANSMISSION CO.

NOTICE OF APPLICATION

OCTOBER 27, 1947.

Notice is hereby given that on October 20, 1947, an application was filed with the Federal Power Commission by Tennessee Gas Transmission Company (Applicant) a Delaware corporation, with its principal place of business in Houston, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of the following described facilities:

(1) Five new compressor stations having a total of 50,000 installed horsepower and to install a total of 125,200 additional horsepower compressor units in existing compressor stations;

(2) Approximately 777 miles of 30 inch loop pipe line and approximately 124 miles of 26 inch pipe as a second loop paralleling existing pipe lines from a point on such pipe lines at Station No. 5 in Louisiana and extending as a third continuous loop pipe line in a northeasterly direction to Compressor Station No. 14 near Burnaugh, Kentucky;

(3) Approximately 170 miles of 26 inch pipe; 480 miles of 24 inch pipe and 140 miles of 20 inch pipe from the suction side of Compressor Station No. 14 near Burnaugh, Kentucky, and extending to a point near Boston, Massachusetts.

(4) A lateral pipe line consisting of approximately 65 miles of 16 inch pipe extending easterly from a point in eastern Ohio to a point near Pittsburgh, Pennsylvania;

(5) Various branch pipe lines of 6⅝ inches, 8⅝ inches, 10¾ inches, and 20 inches to transport supplies of natural gas from various producing fields in the Southwest to connect with and supply gas into Applicant's pipe line system.

Applicant states that the course of the proposed pipe line to Boston will be in a northeasterly direction from near Burnaugh, Kentucky to a point south of Buffalo, New York, skirting the mountains of Pennsylvania; thence through the Mohawk Valley to Albany, New York; thence entering northwestern Massachusetts and continuing to the terminus near Boston. The increased sales capacity of Applicant's pipe line system resulting from the construction and operation of the proposed new facilities is stated to be approximately 455,000 Mcf per day, making a total of 1,055,000 Mcf per day available for sales to markets.

Applicant further states that the estimated total cost of the proposed facilities is $150,000,000. Details of the plan for financing this construction are not stated.

Applicant also states that it has ample natural gas reserves to supply the new markets of approximately 7,230,000 population not presently served with natural gas as well as the increases in demand of customer companies in areas already being served by it, and that its present prospects are that its whole system, including the proposed facilities will be able to operate at 82 per cent of designed capacity. Based on such operation, the gross annual revenue of the system when enlarged is estimated to be $68,100,000.

The cost of operating the whole system including the proposed facilities exclusive of interest and non-operating expenses is estimated at $53,500,000 per annum.

Any interested State Commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37) and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with reasons for such request.

The application of Tennessee Gas Transmission Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such protest or petition shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 or 1.10)

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-9837; Filed, Oct. 30, 1947; 8:47 a. m.]

[Docket No. IT-6096]

CALIFORNIA ELECTRIC POWER CO.

NOTICE OF APPLICATION

OCTOBER 24, 1947.

Notice is hereby given that on October 23, 1947, an application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by California Electric Power Company (hereinafter called "Applicant"), a corporation organized under the laws of the State of Delaware and doing business in the States of Arizona, California and Nevada with its principal business office at Riverside, California, seeking an order authorizing applicant to sell substantially all of its properties and electric facilities in Yuma County, State of Arizona, excepting portions of lines crossing Colorado River and lines crossing the International Boundary into Mexico, to Arizona Edison Company, Inc., for a base purchase price stated in the application to be $850,000 subject to certain adjustments, all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 14th day of November, 1947, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-9833; Filed, Oct. 30, 1947; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[No. 29846]

TEXAS RATES ON WHEAT AND ARTICLES TAKING WHEAT RATES

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 15th day of October A. D. 1947.

It appearing, that a petition has been filed on behalf of the Abilene & Southern Railway Company and other common carriers by railroad operating in the State of Texas averring that the Railroad Commission of Texas, by order dated June 20, 1947, in its Docket 6309-R, required petitioners to maintain rates for application on wheat and articles taking wheat rates moving by rail in intrastate commerce within the State of Texas which are less than those on interstate traffic;

It further appearing, that said petitioners allege that the observance, by them of said order of the Railroad Commission of Texas causes and results in undue and unreasonable advantage, preference, and prejudice as between persons and localities in intrastate commerce, on the one hand, and interstate commerce, on the other hand, and undue, unreasonable, and unjust discrimination against interstate and foreign commerce;

And it further appearing, that the said petition brings in issue freight rates and charges made or imposed by authority of the State of Texas:

It is ordered, That in response to the said petition an investigation be, and it is hereby, instituted, and that a hearing be held therein for the purpose of receiving evidence from the respondents hereinafter designated and any other persons interested to determine whether the rates and charges of the common carriers by railroad, or any of them, operating in the State of Texas for the intrastate transportation of wheat and articles taking wheat rates made or imposed by authority of the State of Texas cause any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum rates and charges, shall be prescribed to remove the unlawful advantage, preference, prejudice, or discrimination, if any, that may be found to exist;

It is further ordered, That all common carriers by railroad operating within the State of Texas subject to the jurisdiction of this Commission be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon each of the said respondents; and that the State of Texas be notified of this proceeding by sending copies of this order and of said petition by registered mail to the Governor of the said State and to the Railroad Commission of Texas at Austin, Tex.,

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register, Washington, D. C.,

And it is further ordered, That this proceeding be assigned for hearing at such times and places as the Commission may hereafter direct.

By the Commission, Division 1.

[SEAL] W P BARTEL, *Secretary.*

[F. R. Doc. 47-9700; Filed Oct. 30, 1947; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-1310]

WEST TEXAS UTILITIES CO.

ORDER RELEASING JURISDICTION AND ORDER MODIFYING PREVIOUS ORDER

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 22d day of October A. D. 1947.

The Commission, on August 7, 1946, having issued its order permitting to become effective a declaration filed pursuant to the Public Utility Holding Company Act of 1935 by West Texas Utilities Company ("West Texas") a then subsidiary of American Public Service Company, a registered holding company subsidiary of Central and South West Utilities Company (now Central and South West Corporation) a registered holding company, relating to the sale by West Texas to Southwestern Public Service Company of certain of its electric, ice and water properties for a base price of $2,135,000 and the use of $1,809,474 of the proceeds from such sale for the purchase of 25,643 shares of its preferred stock from American Public Service Company and the use of the balance of such proceeds for investment in electric utility plan or for expenditures for such other purposes as are specified in section 372 of the Internal Revenue Code as this Commission by subsequent order may approve (see Holding Company Act Release No. 6830) and

Said order having reserved jurisdiction with respect to the use of the proceeds from such sale in excess of the $1,809,474 required for the purchase by West Texas of the shares of its preferred stock; and

West Texas having now filed a Supplemental Application proposing to invest the balance of such proceeds in excess of $1,809,474, amounting to $341,019.74, or an amount equal thereto, in the construction of additions to its integrated electric utility system and requesting the entry of an order releasing the jurisdiction heretofore reserved with respect to the use of such proceeds and conforming to the requirements of sections 371, 372 and 373 of the Internal Revenue Code, as amended; and

The Commission having considered said Supplemental Application and the record relevant thereto and deeming it appropriate to grant the requests contained therein:

It is ordered, That the jurisdiction heretofore reserved with respect to the use by West Texas Utilities Company of the proceeds in excess of $1,809,474 from the sale of its electric, ice and water properties to Southwestern Public Service Company be, and it hereby is, released.

It is further ordered, That the last paragraph of said order of August 7, 1946 be modified to read as follows:

It is further ordered and recited, That the sale by West Texas Utilities Company of its electric, ice and water properties in the Dalhart and Texline areas for a base price of $2,135,000 and the expenditure by West Texas Utilities Company of (a) $1,809,474 of the proceeds to acquire, at $70.564 per share, the 25,643 shares of preferred stock of West Texas Utilities Company now owned by American Public Service Company and (b) an amount equal to the balance of such proceeds for the construction of additions to the electric generating and distribution system of West Texas Utilities Company are necessary or appropriate to the integration or simplification of the holding company system of which West Texas Utilities Company is a member and are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9696; Filed, Oct. 30, 1947; 8:48 a. m.]

[File No. 7-1011]

NATIONAL DISTILLERS PRODUCTS CORP.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 27th day of October A. D. 1947.

The Los Angeles Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, Without Par Value, of National Distillers Products Corporation, a security listed and registered on the New York Stock Exchange.

Rules X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Philadelphia, Pennsylvania.

Notice is hereby given that, upon request of any interested person received prior to November 28, 1947, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any addi-

tional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Philadelphia, Pennsylvania. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS. *Secretary.*

[F. R. Doc. 47-9691; Filed, Oct. 30, 1947; 8:47 a. m.]

[File Nos. 70-1477, 70-1484]

PUBLIC SERVICE CO. OF INDIANA, INC. AND THE MIDDLE WEST CORP.

ORDER RELEASING JURISDICTION OVER FEES

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 22d day of October A. D. 1947.

In the matter of Public Service Company of Indiana, Inc., File No. 70-1477; The Middle West Corporation, File No. 70-1484.

The Commission, on July 10, 1947, having issued its findings and opinion and order granting, subject to certain conditions, applications filed pursuant to the provisions of the Public Utility Holding Company Act of 1935 by The Middle West Corporation, a registered holding company, and its public utility subsidiary, Public Service Company of Indiana, Inc. ("Public Service") regarding the issue and sale by Public Service of $11,077,800 principal amount of its Fifteen-year 2¾% Convertible Debentures, due May 1, 1962, through the issuance of subscription warrants to its common stockholders, and related transactions; and

The Commission having reserved jurisdiction over the payment by Public Service of any fees or expenses to Continental Illinois National Bank and Trust Company of Chicago and to The Chase National Bank of the City of New York for their services in the execution of orders for the purchase or sale of warrants on behalf of stockholders; and

Public Service now having filed an amendment to said applications stating that said banks have submitted a bill in the amount of $2,467.50 for such services rendered to common stockholders and requesting that jurisdiction be released with respect to the payment for such services; and

The Commission having considered the record and finding that the amount of such fee is not unreasonable:

It is ordered, That the jurisdiction heretofore reserved in said order of July 10, 1947 with respect to the payment of fees or expenses to Continental Illinois National Bank and Trust Company of Chicago and to The Chase National Bank of the City of New York for their services in the execution of orders for the purchase or sale of warrants on behalf of stockholders be, and hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9694; Filed, Oct. 30, 1947; 8:48 a. m.]

[File No. 70-1641]

PORTLAND GENERAL ELECTRIC CO.

ORDER GRANTING APPLICATION OR PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 27th day of October A. D. 1947.

Portland General Electric Company, a registered holding company, and a subsidiary company of Portland Electric Power Company, likewise a registered holding company, having filed an application or declaration pursuant to section 6 (a) and either section 6 (b) or 7 of the Public Utility Holding Company Act of 1935, with respect to the following transactions:

Portland General Electric Company proposes to issue and sell, at competitive bidding pursuant to Rule U-50, $6,000,000 principal amount of First Mortgage Bonds, ...% series due 1977, to be secured by a principal Indenture of Mortgage and Deed of Trust from Portland General Electric Company to The Marine Midland Trust Company of New York, dated July 1, 1945, and by a First Supplemental Indenture to be dated November 1, 1947.

It is stated that the Invitation for Bids will provide that each bid for such bonds shall specify the coupon rate (which shall be a multiple of 1/8%) and the price, exclusive of accrued interest to be paid to Portland General Electric Company for such bonds (which shall not be less than the principal amount thereof and not more than 102.75% of the principal amount thereof) and that each bid shall provide that accrued interest on such bonds from November 1, 1947, to the date of delivery and payment therefor will be paid to the company by the purchaser. It is further stated that out of the proceeds of the sale of such bonds, the sum of $6,000,000 in cash will be deposited with the Indenture Trustee, as the basis for the issuance of the $6,000,000 principal amount of such bonds, and that it is contemplated that, immediately after the sale of such bonds, approximately $2,900,000 of such deposit will be withdrawn pursuant to the terms of the Indenture on the basis of available property additions for the period from March 31, 1945, to June 30, 1947, and that the balance of such deposit will be withdrawn pursuant to said Indenture from time to time thereafter on the basis of available additions after June 30, 1947.

Said application or declaration having been filed on September 29, 1947, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and amendments thereto having been filed, and the Commission not having received a request for a hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Applicant or declarant having requested acceleration of the Commission's action on this application or declaration, as amended, and having requested that the Commission's order be issued by October 27, 1947, and that such order become effective forthwith; and the Commission deeming it appropriate to grant such requests; and

Applicant or declarant having further requested the Commission that the 10 day period for inviting bids provided for by subparagraph (b) of Rule U-50 be shortened to six days; and

The Commission finding with respect to said application or declaration that the requirements of the applicable provisions of the act and the rules thereunder are satisfied and deeming it appropriate in the public interest and in the interest of investors and consumers that said application or declaration, as amended, be granted or permitted to become effective:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed in Rule U-24, that said application or declaration be, and the same hereby is, granted or permitted to become effective forthwith except, however, in respect to the price to be received by the company for said bonds, the interest rate thereon, the redemption prices thereof, and the underwriters' spread and its allocation, as to which matters jurisdiction is reserved until the same are known and included in the record of this proceeding, and a further order in connection therewith shall have issued.

It is further ordered, That the 10 day period for inviting bids prescribed by subparagraph (b) of Rule U-50 be, and the same hereby is, shortened to not less than six days.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9692; Filed, Oct. 30, 1947; 8:47 a. m.]

[File No. 70-1647]

CENTRAL MAINE POWER CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 24th day of October A. D. 1947.

Central Maine Power Company ("Central Maine") a subsidiary of New England Public Service Company, a registered holding company, having filed an application, pursuant to the first sentence of section 6 (b) of the Public Utility Holding Company Act of 1935, with respect to the following transactions:

Central Maine proposes to borrow, from time to time, an aggregate amount of $7,000,000 (including $3,000,000 principal amount of notes now outstanding

with The First National Bank of Boston) to be evidenced by its unsecured promissory notes with a maturity of not more than nine months from their respective dates. Applicant states that it has made arrangements with The First National Bank of Boston to borrow up to $7,000,000 at an interest rate of 1½% per annum. The proceeds from the sale of these notes are to be used to complete the company's 1947 construction program and for its other cash requirements. The original application states that Central Maine would retire the proposed notes through the issuance and sale of $4,000,000 principal amount of First and General Mortgage Bonds and sufficient shares of Common Stock, $10 par value, to provide the company with $3,000,000 and on October 20, 1947 the company filed an application with the Commission proposing to issue such securities. Applicant further represents that the proposed transactions are not subject to the jurisdiction of any State Commission or Federal Commission other than this Commission.

Said application having been filed on October 7, 1947, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Applicant having requested acceleration of the Commission's action on this application and having requested that the Commission's order be issued by October 24, 1947, and that such order become effective forthwith; and the Commission deeming it appropriate to grant such requests; and

The Commission finding with respect to said application that the requirements of the applicable provisions of the act and the rules thereunder are satisfied and deeming it appropriate in the public interest and in the interests of investors and consumers that said application be granted:

It is ordered, Pursuant to Rule-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed in Rule U-24, that said application be, and the same hereby is, granted forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-9695; Filed, Oct. 30, 1947; 8:48 a. m.]

[File Nos. 70-1643, 70-1644]

WISCONSIN PUBLIC SERVICE CORP. AND STANDARD GAS AND ELECTRIC CO.

ORDER GRANTING APPLICATION AND RESERVING JURISDICTION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 24th day of October 1947.

In the matter of Wisconsin Public Service Corporation, File No. 70-1644; Standard Gas and Electric Company, File No. 70-1643.

Wisconsin Public Service Corporation, a public utility company and a subsidiary of Standard Gas and Electric Company, a registered holding company, having filed an application and an amendment thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 regarding the issuance and sale at competitive bidding of $4,000,000 principal amount of First Mortgage Bonds due November 1, 1977, the interest rate and redemption prices and the price to be paid to the Company (which shall not be less than 100% and not more than 102¾% of the principal amount thereof) exclusive of accrued interest, to be determined by the competitive bidding; and regarding the issuance and sale to its parent, Standard Gas and Electric Company, of 100,000 additional shares of its common stock, $10 par value per share, for a total cash consideration of $1,000,000; and

Standard Gas and Electric Company having filed an application pursuant to sections 9 and 10 of the Public Utility Holding Company Act of 1935 regarding the acquisition of the aforesaid 100,000 additional shares of the common stock of Wisconsin Public Service Corporation; and

Wisconsin Public Service Corporation having requested that our Order of February 1, 1941 in File No. 70-232 be modified so as to eliminate therefrom the following condition contained therein:

Except as this Commission may by order, or orders, from time to time, permit, so long as any of said Corporation's First Mortgage Bonds, 3¼% Series, due 1971, are outstanding under the Mortgage and Deed of Trust, dated January 1, 1941, from said Corporation to the First Wisconsin Trust Company, as Trustee, said Corporation shall not, nor shall any successor or successors of said Corporation, declare or pay any dividends (other than dividends payable solely in shares of its common stock) or make any other distribution on any shares of its common stock, nor shall any shares of such common stock be purchased, retired or otherwise acquired by said Corporation (or any successor or successors thereof), unless the amount expended by the Corporation (or any such successor or successors) for maintenance and repairs plus provisions for depreciation during the period from January 1, 1941, to the date of the proposed payment of such dividend or making of such distribution or acquisition, plus the earned surplus of the Corporation, accumulated since January 1, 1941, remaining after payment of such dividend or the making of such distribution or acquisition, shall equal fifteen per cent of the gross operating revenues (as defined in said Mortgage and Deed of Trust) of the Corporation (or any such successor or successors) during such period, after the deduction therefrom of an amount equal to the cost to the Corporation of electric energy or gas purchased and resold, and rentals paid for electric or gas generating, transmission or distributing properties leased (including leased water power properties) by the Corporation;

And Wisconsin Public Service Corporation having entered into a stipulation with the Commission in File No. 70-232 in 1941 at the time of the issuance and sale of its outstanding bonds 3¼% series due 1971, which stipulation provides as follows:

Wisconsin Public Service Corporation agrees that it will give the Securities and Exchange Commission sixty days prior notice of its intention so to do, before paying dividends on its Common Stock in excess of six per centum of the par value thereof during any calendar year.

And Wisconsin Public Service Commission having requested that the aforesaid stipulation be nullified and declared of no further effect by order of the Commission; and

The Commission having ordered the aforementioned applications consolidated for purposes of hearing, and a public hearing having been held after appropriate notice, and the Commission having considered the record and having made and filed its findings and opinion herein:

It is ordered, That said applications, as amended, be and they hereby are granted, and that the proposed transactions may be consummated forthwith subject to the terms and conditions prescribed in Rule U-24 and subject to the further condition that the proposed issue and sale of bonds shall not be consummated until the results of competitive bidding pursuant to Rule U-50 shall have been made a matter of record in these proceedings and a further order shall have been entered by this Commission in the light of the record so completed, which order may contain such further terms and conditions as may then be deemed appropriate; and subject to the further condition that the acquisition by Standard Gas and Electric Company of the additional 100,000 shares of the common stock of Wisconsin Public Service Corporation is subject to the provisions of our order entered August 8, 1941, in File No. 59-9, requiring Standard Gas and Electric Company to divest itself of its holdings in Wisconsin Public Service Corporation.

It is further ordered, That the period required by subparagraph (b) of Rule U-50 for the invitation of bids may be reduced to a minimum of 6 days;

It is further ordered, That the request of Wisconsin Public Service Corporation that the Commission rescind the aforementioned condition contained in the order of the Commission dated February 1, 1941 in File No. 70-232 is hereby granted;

It is further ordered, That the request of Wisconsin Public Service Corporation that the stipulation agreed to by that Company with the Commission at the time of the issuance and sale of its outstanding bonds of the 3¼% series due 1971 be nullified and declared of no further effect, is hereby denied;

It is further ordered, That a copy of this order be filed in and made a part of the record in File No. 70-232;

It is further ordered, That jurisdiction is reserved with regard to the payment of fees and expenses to Flynn, Clerkin & Hansen, Miller, Mack & Fairchild, Isham, Lincoln & Beale, Arthur Anderson & Co., and Public Utility Engineering and Service Corporation.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-9693; Filed, Oct. 30, 1947; 8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9870]

MARIE BUSSE

In re: Estate of Marie Busse, deceased. File D-28-11750; E. T. sec. 16123.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Busse, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Marie Busse, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by De Witt Donaldson, as administrator, acting under the judicial supervision of the Orphans' Court of Prince Georges County, Upper Marlboro, Maryland;

and it is hereby determined:

4. That to the extent the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9679; Filed, Oct. 29, 1947; 8:49 a. m.]

[Vesting Order 9872]

CHRISTIAN FERENBAUGH

In re: Estate of Christian Ferenbaugh, deceased. File D-28-11675; E. T. sec. 15883.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Julius Secundus Winterhalter and Otto (Ottoa) Ganz, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the estate of Christian Ferenbaugh, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by The First-Knox National Bank of Mount Vernon, Ohio, Administrator, acting under the judicial supervision of the Probate Court of Knox County, Mount Vernon, Ohio;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9703; Filed, Oct. 30, 1947; 8:48 a. m.]

[Vesting Order 9378]

JOHN P. PAQUAY

In re: Estate of John P. Paquay, deceased. File D-28-8902; E. T. sec. 11104.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next-of-kin, legatees and distributees of Maria Paquay Thomasson, deceased, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the estate of John P. Paquay, deceased, is property within the United States owned or controlled by, payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by W. E. Sims, as administrator c. t. a., acting under the judicial supervision of the County Court of Garfield County, Enid, Oklahoma;

and it is hereby determined:

4. That to the extent that the personal representatives, heirs, next-of-kin, legatees and distributees of Maria Paquay Thomasson, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9631; Filed, Oct. 29, 1947; 8:49 a. m.]

[Vesting Order 9335]

LOUISE B. WALTER

In re: Estate of Louise B. Walter, deceased. File D-28-8949; E. T. sec. 11263.

Under the authority of the Trading with the Enemy Act as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Merz whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof in and to the estate of Louise B. Walter, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany),

3. That such property is in the process of administration by Francis J. Mulligan, Public Administrator of New York County, as administrator d.b.n., acting under the judicial supervision of the Surrogate's Court of New York County, New York;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States

requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9682; Filed, Oct. 29, 1947; 8:50 a. m.]

[Vesting Order 9964]

HERMANN PLOSCHITZKI

In re: Stock owned by Hermann Ploschitzki. F-28-23643-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Hermann Ploschitzki, whose last known address is Berlin, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: Twenty-five (25) shares of no par value common, class B, capital stock of American Bemberg Corporation, 261 Fifth Avenue, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificate number 14166, registered in the name of Hermann Ploschitzki, together with all declared and unpaid dividends thereon.

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 7, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9707; Filed, Oct. 30, 1947; 8:48 a. m.]

[Vesting Order 10021]

ANNA MARIA HENEN BROADWOOD

In re: Estate of Anna Maria Henen Broadwood, deceased. File D-28-9735; E. T. sec. 13649.

Under the authority of the Trading with the Enemy Act, as amended, and Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found and determined:

1. That Else Pfafferott, who is a citizen or subject of Germany, who the national interest of the United States requires be treated as a national of a designated enemy country (Germany), is a national of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to the Estate of Anna Maria Henen Broadwood, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by Coleman Jennings, as Executor, acting under the judicial supervision of the Surrogate's Court of New York County, New York.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9709; Filed, Oct. 30, 1947; 8:48 a. m.]

[Vesting Order 10026]

THERESA FOX

In re: Estate of Theresa Fox, deceased. File No. D-28-11838; E. T. sec. 16048.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Josef Pilz, also known as Yosef Filz, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the person identified in subparagraph 1 hereof, in and to the estate of Theresa Fox, deceased, is property payable or deliverable to, or claimed by the aforesaid national of a designated enemy country (Germany),

3. That such property is in the process of administration by H. Bogart Seaman, as administrator, acting under the judicial supervision of the Surrogate's Court of Nassau County, Mineola, New York;

and it is hereby determined:

4. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9684; Filed, Oct. 29, 1947; 8:50 a. m.]